

ELIZABETH WARREN
 MASSACHUSETTS

UNITED STATES SENATE
 WASHINGTON, D.C. 20540-2000
 TEL: 202-224-3441

U.S. DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF INVESTIGATION
 400 NEW YORK AVENUE, N.E.
 WASHINGTON, D.C. 20535-0001

U.S. MARSHAL SERVICE
 FEDERAL BUREAU OF INVESTIGATION
 400 NEW YORK AVENUE, N.E.
 WASHINGTON, D.C. 20535-0001

U.S. MARSHAL SERVICE

United States Senate

March 7, 2016

The Honorable Gina McCarthy
 Administrator
 Environmental Protection Agency
 1200 Pennsylvania Ave, NW
 Washington, DC 20460

Dear Administrator McCarthy,

I am writing to request technical assistance to understand how a default *mens rea* or criminal intent standard would affect the Environmental Protection Agency's investigations of corporate crime.

In testimony before the Senate Committee on the Judiciary on January 20, 2016, Assistant Attorney General Leslie Caldwell stated that imposing a default *mens rea* standard for federal criminal laws would "severely weaken important statutes that are critical to protecting public health and safety," such as the Clean Air Act and the Clean Water Act.¹

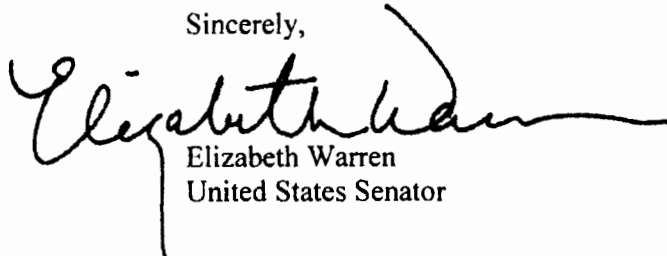
To better understand the potentially far-reaching consequences of establishing a default *mens rea* standard, I ask that you provide the following information:

1. A list of statutes and regulations under which the Environmental Protection Agency has pursued investigations of corporate crime that would be affected by a default *mens rea* standard.
2. An explanation of how a default *mens rea* standard would affect the Environmental Protection Agency's future corporate criminal investigations, including decisions to investigate cases and decisions to refer cases.
3. Examples of settled cases that the Environmental Protection Agency may have treated differently if a default *mens rea* standard had existed at the time, including the likelihood that the administration would have a) proceeded with investigations, and b) succeeded to the degree that they did.
4. Does the Environmental Protection Agency have concerns about a prospective default *mens rea* standard and what implications would that have for future corporate criminal investigations and decisions to refer cases?

¹ *The Adequacy of Criminal Intent Standards in Federal Prosecutions: Hearing Before the S. Comm. On the Judiciary, 114th Cong. (2016) (statement of Leslie R. Caldwell, Assistant Att'y Gen.) available at <http://www.judiciary.senate.gov/imo/media/doc/01-20-16%20Caldwell%20Testimony.pdf>.*

I appreciate your attention to this issue and ask that you provide me with this information by March 28, 2016. Please contact Julie Babayan of my staff at julie_babayan@warren.senate.gov or at 202-224-4543 if you have any questions about this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Warren", with a long horizontal flourish extending to the right.

Elizabeth Warren
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 26 2016

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable Elizabeth Warren
United States Senate
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your letter of March 7, 2016, to the U.S. Environmental Protection Agency (EPA) regarding how a default *mens rea* or mental state standard would affect the EPA's investigation of environmental crimes. I appreciate your interest in this matter.

The EPA shares the concerns raised by Leslie Caldwell, Assistant Attorney General of the Criminal Division of the Department of Justice (DOJ), before the Senate Judiciary Committee on January 20, 2016. We continue to work closely with DOJ to evaluate the effects of potentially wide-sweeping changes to the United States Code regarding environmental prosecutions.

There are two pollution control statutes enforced by the EPA which impose criminal penalties but lack explicit *mens rea* standards and which could, on that ground, be subject to a default *mens rea* standard.

The Rivers and Harbors Act of 1899 provides misdemeanor penalties for "[e]very person and . . . corporation" that obstructs, builds, excavates, fills, or alters the course, condition, or capacity of any navigable water of the United States without a permit, 33 U.S.C. §§ 403, 406. Although the statute does not contain an explicit *mens rea* requirement, at least one court has interpreted the Rivers and Harbors Act as requiring a general intent mental standard of knowing. *United States v. Commodore Club, Inc.*, 418 F. Supp. 311, 319-320 (E.D. Mich. 1976). The United States has maintained that a mental standard of knowing is the requisite *mens rea* when pursuing prosecutions under this statute.

The Refuse Act provides misdemeanor penalties for "every person and . . . corporation" that throws, discharges or deposits from ship, barge, shore, etc., any refuse matter of any kind or description into any navigable water of the United States without a permit, or places any material on the bank of navigable water in a position where it is liable to be washed into water, thereby possibly impeding navigation, *see* 33 U.S.C §§ 407, 411. This Act has been interpreted by several federal district courts and at least one federal appellate court as a strict liability criminal statute.

The primary federal regulations applicable to both statutes are found at 33 C.F.R. Parts 320 thru 323.


Relatively few federal environmental criminal prosecutions are based solely upon a violation of pollution control statutes under the jurisdiction of the EPA. Many environmental prosecutions include charges under Title 18 of the United States Code for general criminal offenses such as conspiracy, fraud, false statements and obstruction. We are coordinating with the DOJ to fully understand how proposed default *mens rea* standards could impact our ability to investigate corporate criminal wrongdoing under the pollution control laws and Title 18. The ultimate impacts of a default *mens rea* standard are difficult

to predict as these investigations often involve crimes under both Title 18 and the pollution control statutes. We are concerned that the enactment of a default *mens rea* standard would create significant uncertainty in the law that could lead to extensive litigation in matters involving serious crimes.

A default *mens rea* standard which creates a "mistake of law" defense to environmental crimes would allow defendants to attempt to avoid liability by arguing that even if their conduct was intentional, they did not know it was criminal. Such a provision would generate significant litigation in areas where the law was previously settled. Defendants could cite the provision in an effort to transform current felony offenses involving "knowing violations" of the Clean Air Act, Clean Water Act, and other pollution control statutes into "willful violations," which are more difficult to prove. This would contravene Congress' original intent to provide felony penalties for knowing violations and significantly complicate efforts to prosecute environmental crimes.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Raquel Snyder in the EPA's Office of Congressional and Intergovernmental Relations at Snyder.Raquel@epa.gov or at (202) 564-9586.

Sincerely,


Cynthia Giles



**Committee on Transportation and Infrastructure
U.S. House of Representatives**

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Christopher P. Bertram, Staff Director

March 9, 2016

Katherine W. Dedrick, Democratic Staff Director

The Honorable Loretta E. Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Attorney General Lynch and Administrator McCarthy:

On July 25, 2010, a segment of a 30-inch diameter pipeline owned and operated by Enbridge Incorporated ruptured in Marshall, Michigan. According to the National Transportation Safety Board, the rupture was not discovered for 17 hours. During that time, nearly one million gallons of tar sands flooded Talmadge Creek and the Kalamazoo River and headed toward a Superfund site, which extended about 80 miles from the Morrow Lake Dam to Lake Michigan.

Local residents were evacuated from their homes, hundreds of people experienced adverse health effects, and the environment along with local wildlife was decimated. A section of the Kalamazoo River was closed to the public for a full two years while cleanup efforts continued. More than five years have passed and 80,000 gallons of tar sands remains imbedded in the water column and riverbed and along shorelines, likely unrecoverable.

The Enbridge oil spill was the largest inland oil spill in U.S. history. The U.S. Environmental Protection Agency (EPA) served as the on-scene federal coordinator for the spill, and the agency is well aware of the devastation it caused. The Committee on Transportation and Infrastructure also conducted an investigation of Enbridge's failed actions with regard to the rupture.

Recent press reports indicate that EPA has not yet assessed a fine against Enbridge for Clean Water Act violations as a result of the spill. In fact, EPA has extended "negotiations" with Enbridge over the fine, not once but twice with a final decision expected this June.

The Honorable Loretta E. Lynch
The Honorable Gina McCarthy
March 9, 2016
Page 2

Section 311(b)(7)(D) of the Clean Water Act provides that in any case in which a violation was the result of gross negligence, the violator shall be subject to a civil penalty of up to \$4,300 per barrel of oil discharged, which means that Enbridge's fines could reach more than \$100 million.

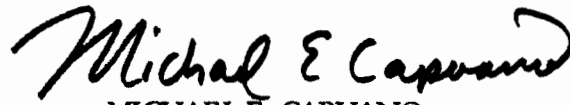
We strongly urge you to bring these negotiations to a close and to assess Enbridge the highest possible penalty available under the Clean Water Act for the destruction that was caused. The people of Marshall, Michigan are still suffering, and Enbridge should be held accountable for its conduct.

Thank you for your consideration.

Sincerely,



PETER DeFAZIO
Ranking Member



MICHAEL E. CAPUANO
Ranking Member
Subcommittee on Railroads,
Pipelines, and Hazardous Materials



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 19, 2016

The Honorable Peter DeFazio
Ranking Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Michael Capuano
Ranking Member
Subcommittee on Railroads, Pipelines,
and Hazardous Materials
U.S. House of Representatives
Washington, DC 20515

Dear Congressman DeFazio and Congressman Capuano:

This responds to your letter to the Attorney General and the Administrator of the Environmental Protection Agency dated March 9, 2016, regarding the Enbridge pipeline oil spill in Marshall, Michigan.

As you know, the Department of Justice (the Department) is working closely with the Environmental Protection Agency on the negotiations with Enbridge to resolve Clean Water Act claims. We appreciate your concerns, but as this is an ongoing matter we are prevented by the Department's policy from discussing non-public information. However, we can assure you that we take this matter, and the protection of public health and clean water in the United States, very seriously. We share your interest in resolving this matter as quickly as possible.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter J. Kadzik".

Peter J. Kadzik
Assistant Attorney General

The Honorable Peter DeFazio
The Honorable Michael Capuano
Page Two

cc: The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure

The Honorable Jeff Denham
Chairman
Subcommittee on Railroads, Pipelines, and Hazardous Materials

JARED POLIS
2ND DISTRICT, COLORADO

1433 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0802
(202) 225-2161
(202) 226-7840 (FAX)

website and email:
<http://polis.house.gov>



Congress of the United States
House of Representatives
February 22, 2016

COMMITTEES:
COMMITTEE ON RULES

COMMITTEE ON
EDUCATION AND THE WORKFORCE
SUBCOMMITTEES:
RANKING MEMBER
HEALTH, EMPLOYMENT, LABOR,
AND PENSIONS
HIGHER EDUCATION

COMMITTEE ON
NATURAL RESOURCES

STEERING AND POLICY
PARLIAMENTARIAN

Laura Vaught
Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3426 Arn
Washington, DC 20460-0001

Dear Laura,

Enclosed is a copy of correspondence I have received from my constituent *exempt 6* concerning his requests regarding Rocky Flats. I believe you will find the letter self-explanatory.

I would appreciate it if you would review the enclosed letter and provide me with any information that may be helpful to *exempt 6*. Please direct your response to Stuart Feinhor, in my Boulder office.

I am grateful for any assistance you may be able to provide in this matter.

Sincerely,

Jared Polis
U.S. Representative

JP/sf



Congressman Jared Polis (CO-2)

1644 Walnut Street • Boulder, CO • 80302 • phone (303) 484-9596 • fax (303) 568-9007

Privacy Authorization Form

For assistance with any federal agency, please print and fill out this form and fax or mail it to Congressman Polis' Boulder Office: 1644 Walnut Street, Boulder, CO 80302 fax: 303/568-9007. * Do not send your Social Security Number via email.

Date: February 12, 2016

Name: exempt

Address: exempt
exempt

Email Address: exempt

Home Phone: exempt Work/Cell Phone: _____

Social Security Number: _____ Date of Birth: exempt

Agency Involved: EPA

Case or File Number (if other than SSN): _____

Date and Place Claim was filed: 2/12/16 in Boulder, CO

Please describe problem in detail (attach a separate sheet, if necessary): _____

See separate attached sheet

If you are working with another congressional office, please indicate: _____

In accordance with the provisions of the Privacy Act, I hereby authorize Congressman Jared Polis or a member of his staff to make the appropriate inquiry on my behalf.

Sincerely,

(Signature)

exempt

16-000-4797

I am requesting five actions to be taken by EPA as follows:

1. EPA needs to develop techniques for continuous monitors to detect both existing plutonium in the air and to identify soil plutonium that may become airborne during windy conditions from reflation and/or other surface disturbances. The measurements must be continuous since evidence indicates that the release of plutonium can be random and not steady as were the releases during production.
2. Identify the health effects and the levels of plutonium that causes these effects.
3. Establish a standard limiting the amount of airborne plutonium in order to protect the public from breathing it into their lungs.
4. Develop cleanup techniques for plutonium at Rocky Flats.
5. Develop methods to ensure that the plutonium in the ground at Rocky Flats cannot migrate to the surface. This would include both water movement, plants absorbing the plutonium and transporting it to the surface through growth and then dead leaves falling to the ground and any other means of transport to the surface.

These requests are for the former Rocky Flats nuclear weapon facility located just a few miles northwest of Denver. It includes both the current superfund site as well as the Rocky Flats property now controlled by the US Fish & Wildlife.

16-000-4797



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, Colorado 80202-1129
Phone 800-227-8917
www.epa.gov/region8

August 11, 2015

Ref: 8EPR-SR

Exempt

Re: Concerns about radioactive substances at Rocky Flats

Dear Dr. Biggs:

Thank you for your June 15, 2015, email in which you expressed your concerns about radioactive substances, specifically plutonium, used at Rocky Flats during plant operations.

The 1970-1995 historical information summarized in your email was part of the extensive evidence and documentation examined during the Remedial Investigation/Feasibility Study (RI/FS), which included a comprehensive risk assessment of the site. The RI/FS was completed in 2006 and spans 23 volumes of data and interpretation. It considered not only the historic information but also data gathered after plant operations ceased in 1992. The RI/FS can be found at:

http://www.lm.doe.gov/Rocky_Flats/Regulations.aspx

The remediation of the Rocky Flats site was designed to achieve a protectiveness level consistent with the Superfund risk range of 10^{-4} to 10^{-6} excess cancer risk. This remediation included decommissioning, decontamination, demolition and removal of more than 800 structures; removal of more than 500,000 cubic meters of low-level radioactive waste; and remediation of more than 360 potentially contaminated sites. Site cleanup was completed in October 2005 and site closure occurred in 2006 with the approval of the Record of Decision/Corrective Action Decision.

The agencies responsible for regulating this site, the U.S. Environmental Protection Agency and the Colorado Department of Public Health and the Environment, now oversee ongoing monitoring and maintenance activities. In addition, the remediation decisions are formally reviewed every five years to ensure the remedy continues to be protective. The most recent five year review was conducted in 2012 and can be found under *Third Five-Year Review Report for the Rocky Flats Site* at:

http://www.lm.doe.gov/Rocky_Flats/Regulations.aspx

The fate and transport of radioactive contaminants at Rocky Flats, including plutonium, was specifically examined in the Actinide Migration Evaluation (AME), which brought together nationally-recognized experts in fields relevant to this topic. The Actinide Migration Evaluation Pathway Analysis Summary Report and its technical appendix were published in April 2002 and can be found at:

http://www.lm.doe.gov/cercla/documents/rockyflats_docs/SW/SW-A-004544.pdf

http://www.lm.doe.gov/cercla/documents/rockyflats_docs/SW/SW-A-004547.pdf

The AME was used as one of the inputs for remedial decisions. The AME concluded that the most significant environmental exposure pathway was transport of actinides from soils to surface water.

Accordingly, the surface waters leaving the site are continuously monitored to ensure standards are met. The standard for plutonium was established by the Colorado Water Quality Commission at 0.15 pCi/L. The air pathway was investigated as part of the comprehensive RI/FS. Section 6 of that report discusses the nature and extent of air contamination.

Incidence of cancer in the vicinity of Rocky Flats was examined in the study titled *Ratios of Cancer Incidence in Ten Areas Around Rocky Flats, Colorado, Compared to the Remainder of Metropolitan Denver, 1980-1989 with Update for Selected Areas, 1990-1995* and can be found at:

<http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615995394>

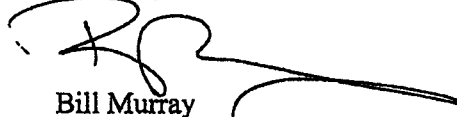
or at:

https://www.colorado.gov/pacific/sites/default/files/DC_Rocky-Flats-Cancer-Incidence-Ratios-1980-1995.pdf

This study included a substantially larger population than that investigated in the 1970's. A key finding of this study was that "communities in the general vicinity of Rocky Flats had cancer incidence during 1980-89 that was comparable to the remainder of the Denver Metro Area."

We appreciate your continued interest in the Rocky Flats site. If you have any further questions on these matters, please contact Vera Moritz of my staff at (303) 312-6981 or moritz.vera@epa.gov.

Sincerely,



Bill Murray
Program Director
Superfund Remedial Program



Printed on Recycled Paper

AL-16-000-5362

MITCH McCONNELL
KENTUCKY

317 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1702
(202) 224-2541

United States Senate

MAJORITY LEADER
COMMITTEES:
AGRICULTURE
APPROPRIATIONS
RULES AND ADMINISTRATION

March 3, 2016

Ms. Laura Vaught
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Room 3426 ARN
Washington, D.C. 20460-0003

Dear Ms. Vaught:

Recently, my constituent, County Judge Executive Wallace Taylor, shared with me his concerns regarding radioactive material that was dumped at the Estill County landfill, which is in close proximity to Estill County schools. Judge Taylor is requesting that your agency look into this matter.

I have enclosed a sample of his correspondence for your review. As you can see from his letter, this is a time sensitive issue, and I would greatly appreciate your review of this concern consistent with all federal rules and Senate ethics.

Thank you for your timely consideration of this matter. I look forward to your reply that I may share with my constituent. Please contact Natalie McIntyre on my staff should you have any questions.

Sincerely,



MITCH McCONNELL
UNITED STATES SENATOR

MM/nm



Judge Wallace Taylor
Estill County Judge Executive

130 Main Street, Room 101
Irvine, KY 40336

(606) 723-7524
Fax: (606) 723-5471
www.estillky.com

Senator Mitch McConnell
United States Senate
771 Corporate Drive Suite 108
Lexington, KY 40503

March 2, 2016

Dear Senator McConnell:

The reason for my letter today is to request your urgent assistance in providing whatever services you can to help us protect our citizens and to be as knowledgeable as possible concerning the radioactive material that was illegally dumped at our landfill. The urgency to get answers is magnified due to the landfill being located directly across from the Estill County High School and the Estill County Middle School.

At this time we respectfully request the Federal Branch of the Environmental Protection Cabinet and Occupational Safety and Health Administration to provide us with complete and thorough investigations. We would also appreciate getting these agencies recommendations for containment, remediation or removal of the contaminants that were disposed of at our landfill.

As I know you are aware, the safety of our residents is always our number one concern. We request every possible revenue you have at your disposal to assist in assuring that our constituents are safe and that they will continue to be safe for generations to come.

Should you have any questions regarding this matter or require any further information please do not hesitate to contact my office.

Respectfully,

Wallace C. Taylor
Estill County Judge Executive



16-000-5362



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 25 2016

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

Dear Senator McConnell:

Thank you for your March 3, 2016, letter to the U.S. Environmental Protection Agency on behalf of your constituent, County Judge Executive Wallace C. Taylor of Irvine, Estill County, Kentucky. Your letter and Judge Taylor's correspondence to you, dated March 2, 2016, were forwarded to the EPA's Region 4 office in Atlanta, Georgia for review and response. Judge Taylor's letter expresses his concerns about radioactive material that has been improperly disposed at the Blue Ridge Landfill in Irvine, Kentucky. In particular, he is concerned about the safety of citizens, including the safety of students who attend two County schools located across the street from the Blue Ridge Landfill. Judge Taylor is requesting that information be provided about Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) and also wants the federal government to provide "complete and thorough investigations" of the situation. In addition, he wants federal agencies to provide recommendations for containment, remediation or removal of the TENORM from the Landfill and asks that all available "revenues" be directed to respond to this incident.

The Blue Ridge Landfill is a lined municipal solid waste landfill that improperly received approximately 47 loads of TENORM waste from June to November 2015. The TENORM waste was generated out of state from processes associated with the oil and gas exploration/production industry. TENORM can also be associated with other industries' wastes, such as mining wastes and coal ash, which in some cases are found to contain certain radionuclides. Information on TENORM found in petroleum industry wastes can be accessed at <http://www.epa.gov/radiation/tenorm-oil-and-gas-production-wastes>.

In general, the permitting, enforcement and compliance of municipal solid waste landfills is within the purview of state regulatory agencies. As a result, the EPA contacted the Kentucky Department for Environmental Protection (KDEP) regarding the concerns expressed in Judge Taylor's letter. According to KDEP, the Commonwealth's Radiation Health Branch (RHB), located within the Division of Public Health Protection and Safety, has evaluated the two County schools for any potential radiation above background levels and has determined that there is no current impact. The RHB has also evaluated specific areas of the Landfill and is in the process of evaluating the possibility that workers at the Landfill may have been subjected to radiation exposure from the TENORM. RHB is also investigating the generation, subsequent laboratory analyses, transportation and disposal of the TENORM, as well as the parties associated with each of these activities. EPA has learned from KDEP that a contractor for the Landfill is also performing scans and testing for radioactivity at the facility.

In addition to the actions taken by the RHB, KDEP has also responded to the incident. Once it was alerted that TENORM had been disposed at the Blue Ridge Landfill, KDEP's Division of Waste Management issued a February 22, 2016, notice informing all holders of Division of Waste Management permits that "it is the duty of such permit holders to duly conform to all statutes and regulations

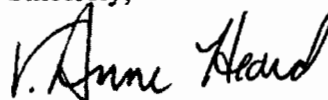
concerning such radioactive materials and activities." KDEP also issued a Notice of Violation to the Landfill under state law for the release of a hazardous substance/pollutant/contaminant (i.e., the TENORM). Pursuant to this Notice of Violation, the owner/operator of the Landfill is responsible for characterizing the extent of the release and taking any actions necessary to correct the effect of the release on the environment. KDEP plans to meet with officials from Advanced Disposal, the Landfill's operator, in the very near future in order to learn more about how the TENORM was handled and to discuss the delineation/characterization process and corrective action plan.

As discussed above, the Commonwealth of Kentucky is taking proactive steps to address citizens' concerns regarding the TENORM waste disposed at the Blue Ridge Landfill. With respect to Judge Taylor's request for federal funds to address this incident, at this time, it appears that the Landfill owner/operator will be funding the investigation and cleanup activities with KDEP oversight.

Questions and concerns regarding waste management issues may be directed to Mr. Anthony Hatton, Director, KDEP Division of Waste Management, at 502-564-6716 ext. 4600, or Tony.Hatton@ky.gov. Questions and concerns involving TENORM and radiation health may be directed to Ms. Kathy Fowler, Director, Kentucky Division of Public Health Protection and Safety, at 502-564-7398, or KathyL.Fowler@ky.gov.

If you have questions regarding the information contained in this letter or need additional information from the EPA, please contact me or Allison Wise, in the Region 4 Office of Government Relations, at (404) 562-8327.

Sincerely,



for Heather McTeer Toney
Regional Administrator

cc: Mr. Anthony Hatton
KDEP

Ms. Kathy Fowler
KDPHPS

AL-16-000-4570

MITCH McCONNELL
KENTUCKY

317 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1702
(202) 224-2541

United States Senate

MAJORITY LEADER
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February 1, 2016

Ms. Laura Vaught
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Room 3426 ARN
Washington, D.C. 20460-0003

Dear Ms. Vaught:

Recently, I've heard from a number of my constituents who have concerns about the Environmental Protection Agency's tailpipe emission standards, and particularly, the impact these standards are having on emergency vehicles.

I would greatly appreciate your review of these concerns consistent with Senate ethics and federal rules. Please find enclosed a few samples of these correspondences for your reference.

Thank you for your consideration of this matter. I look forward to your reply, which I may share with my constituents.

Sincerely,



MITCH McCONNELL
UNITED STATES SENATOR

MM/nm

FEDERAL BUILDING
241 EAST MAIN STREET
ROOM 102
BOWLING GREEN, KY 42101
(270) 781-1673

1885 DIXIE HIGHWAY
SUITE 345
FORT WRIGHT, KY 41011
(859) 578-0188

771 CORPORATE DRIVE
SUITE 108
LEXINGTON, KY 40503
(859) 224-8286

300 SOUTH MAIN
SUITE 310
LONDON, KY 40741
(606) 864-2026

601 WEST BROADWAY
SUITE 630
LOUISVILLE, KY 40202
(502) 582-6304

100 FOUNTAIN AVENUE
SUITE 300
PADUCAH, KY 42001
(270) 442-4554



300 North Main Street
Versailles, KY 40383
1-800-782-6823
Fax: 859-256-3125

November 4, 2015

The Honorable Senator Mitch McConnell
317 Russell Senate Office Building
Washington D.C. 20510

Dear Senator McConnell,

On behalf of the Kentucky Fire Commission and the entire fire service I would like to pass on to you and your staff a copy of a letter that I received from Chief Michael Workman, Hopkinsville Fire/EMS. I have been advised that the issue (the use of the (DEF) Diesel Exhaust Fluid) that he states in his letter is a federal issue and very concerning to the safety of the citizens of the Commonwealth. We have surveyed many fire departments in the Commonwealth and are finding that this issue has been a problem for many, and we are hoping that your office can give us assistance to relieve the emergency service from use of the fluid.

As you can see we need your help. We along with Chief Workmen, the entire fire service and the citizens of the Commonwealth of Kentucky make this plea for your help.

Thanks in advance for any assistance that you and your staff can provide!

Sincerely,

Michael J. "Howdy" Kurtsinger, Division Director
Kentucky State Fire Commission
118 James Court
Lexington, Ky. 40505
Mkurtsinger0001@kctcs.edu

AL-16-000 -4570

10583454



HOPKINSVILLE FIRE/EMS
"Always Ready - Always Nice"

116 West First Street
Hopkinsville, Kentucky 42240

Chief Freddie D. Montgomery, Jr. **15 OCT 13 AM 10:36**
Deputy Chief Michael A. Workman - Assistant EMS Director



29 September 2015

Dear Senator McConnell,

We have been experiencing severe mechanical issues in our vehicles that are using Diesel Exhaust Fluid (DEF). The issues are most pronounced in our ambulances. In some cases, the ambulance has lost power when transporting patients. Our Service Technician is convinced that many of the issues are a direct result of the DEF system required by EPA standards. Apparently this is nothing unique to us.

We have ambulances that are relatively new (2014), that spend an unacceptable amount of time in the shop. This keeps a much needed Advanced Life Support unit out of service, and puts a financial strain on the service.

Recently we received an email "apology" from our vendor stating that this was an industry wide issue that they had not yet found all the answers to. Unfortunately, they offered us no solutions. Our future purchases will most likely be gas instead of diesel, but this does not help us right now.

My question is, could/would you be willing to look at legislation that could be enacted to exempt Emergency Vehicles from this emission standard?

I know that there are numerous examples nationally, of ambulances using DEF that have experienced power loss issues and "Re-gen" issues during transport, with tragic results.

Please consider this request as a plea for help. It is obvious to me, as well as other services in Kentucky, that the manufactures and engineers have no answers for us, and we are running out of options. My fear is that Hopkinsville Fire Department will experience a power loss with a patient on board, and that the outcome will be tragic.

Thank you for your attention to this matter.

A handwritten signature in black ink, appearing to read "Michael A. Workman".

Deputy Chief Michael A. Workman

PHONE: (270) 890-1400 FAX: (270) 890-1414 www.hoptown.org

HOPKINSVILLE-CHRISTIAN CO. EMERGENCY AMBULANCE SERVICE

Congress of the United States

Washington, DC 20510

February 26, 2016

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Ms. Heather McTeer Toney
Regional Administrator, Region 4
Environmental Protection Agency
Atlanta Federal Center
61 Forsyth Avenue, SW
Atlanta, GA 30303

Dear Madam Administrator and Ms. Toney:

We write to express serious concern regarding the Environmental Protection Agency's (EPA) administration of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as Superfund. In particular, EPA's designation of "potentially responsible parties" (PRPs) through an "air deposition" theory of liability appears to rest on questionable legal authority and may set a troubling precedent for all facilities in the United States which generate air emissions subject to the Clean Air Act and other relevant statutes.

As you are aware, on September 22, 2014, EPA proposed placing the 35th Avenue site in North Birmingham on the National Priorities List. According to the EPA Hazard Ranking System record that accompanied the proposal, "[a]ir is the primary source of deposition within the 35th Avenue site . . . from smokestacks and windblown particles from process fines and other stockpiled material." In conjunction with this air deposition theory, the agency has designated several facilities as PRPs and has informed the facilities that they may be forced to undertake cleanup actions or incur financial liability for costs associated with any cleanup of the site.

We are mindful of EPA's repeated attempts to increase the scope of federal regulatory authority, and we fear the application of the air deposition theory to supposed "arrangers" under CERCLA represents a significant expansion of the agency's Superfund enforcement powers. Arranger liability attaches to any person who disposes of hazardous substances,¹ with "disposal" defined as the "discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any

¹ 42 U.S.C. § 9607(a)(3).

constituent thereof may enter the environment or be *emitted into the air* or discharge into any waters.”²

A plain reading of this definition demonstrates that, to the extent air emissions may be a factor in determining arranger liability, such emissions must result directly from the discharge of solid or hazardous waste directly into or onto any land or water. In other words, industrial air emissions from lawful sources are to be regulated under the Clean Air Act, not CERCLA. However, EPA seems intent on pressing the air deposition theory in North Birmingham, while having also endorsed the theory in an amicus curiae brief filed recently in the Ninth Circuit Court of Appeals. EPA’s legal positions raise serious questions regarding the agency’s understanding of its statutory authority.

Similar reservations are expressed in the enclosed resolution, adopted jointly by the Alabama House of Representatives and Alabama Senate and approved by the Governor of Alabama on June 9, 2015. The resolution describes the 35th Avenue site proposal and provides that EPA is “attempting to impose a novel and overbroad ‘air deposition’ theory of Superfund liability which would allow EPA to pursue industrial facilities for contamination at non-contiguous properties on the basis of air emissions which are subject to the federal Clean Air Act and authorized by a valid air operating permit.” The resolution notes further that EPA’s “broad air deposition theory would allow EPA to order businesses to clean up hazardous contamination within an indefinite area before proving that the business was actually responsible.” Thus, we are especially concerned with the due process implications associated with this charge.

The resolution also suggests that EPA is pursuing the air deposition theory “as an illicit means for funding policy initiatives which are outside its regulatory authority.” Indeed, the 35th Avenue site proposal appears to be part of an “environmental justice” initiative for EPA to become a *de facto* redevelopment authority in Birmingham.³ Tellingly, the proposal follows a 2011 planning document in which EPA announced its intent to “go beyond traditional injunctive relief to stop illegal pollution . . . and, where appropriate and agreed to by defendants, to include Supplemental Environmental Projects . . . that provide benefits to communities,” as well as to “leverage benefits resulting from enforcement activities.”⁴

Finally, the resolution describes prior objections to the 35th Avenue site proposal from the Alabama Attorney General and Alabama Department of Environmental Management (ADEM). For example, ADEM repeatedly informed EPA that it did not concur with the proposed listing, as the Attorney General explained in a letter provided

² *Id.* § 6903(3) (emphasis added).

³ See Environmental Protection Agency, Region 4 Superfund, Annual Report, FY 2014 at 5.

⁴ Environmental Protection Agency, *Plan EJ 2014: Advancing Environmental Justice Through Compliance and Enforcement* (Sept. 2011).

Page 3

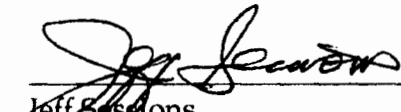
February 26, 2016

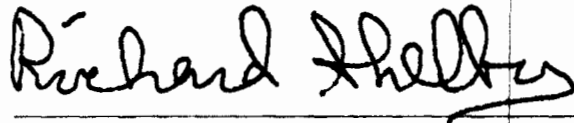
to EPA on January 20, 2015. Under the 1997 "Fields Memorandum," ADEM's decision to withhold concurrence required EPA to work closely with the State of Alabama prior to formally proposing a site for the National Priorities List. Yet the Attorney General's comment letter indicates that EPA neglected to follow the procedure outlined in the Fields Memorandum, suggesting agency disregard for state coordination and input during the site proposal process.

EPA's air deposition theory and corresponding proposal to place the 35th Avenue site on the National Priorities List raise important legal and scientific questions and present substantial risk for businesses that may have little to no responsibility for site contamination. For these reasons, the state Legislature, Governor, and Attorney General for Alabama have each requested EPA to reconsider its position.

We believe these requests are justified, and we urge EPA to give them careful attention. Furthermore, so that we may confirm the agency's appropriate understanding of CERCLA and related legal authorities, we request your staff to schedule a meeting with our offices at the earliest opportunity to discuss the concerns raised above and in the enclosed resolution.

Yours very truly,



Jeff Sessions
United States Senator

Richard Shelby
United States Senator

Gary Palmer
United States Representative

cc: Sen. James M. Inhofe, Chairman, Committee on Environment and Public Works
Sen. Thad Cochran, Chairman, Committee on Appropriations
Sen. M. Michael Rounds, Chairman, Subcommittee on Superfund, Waste Management, and Regulatory Oversight, Committee on Environment and Public Works
Sen. Lisa Murkowski, Chairman, Subcommittee on the Interior, Environment, and Related Agencies, Committee on Appropriations

ACT No. 2015 - 426

1 SJR97
2 169945-3
3 By Senator Waggoner
4 RFD: Rules
5 First Read: 28-MAY-15



SJR97

1 SJR97

2

3

4 ENROLLED, SJR97,

5 URGING INCREASED OVERSIGHT OF AND OPPOSITION TO
6 EPA'S ACTIVITIES IN ALABAMA.

7

8 WHEREAS, the Alabama Department of Environmental
9 Management (ADEM) is entrusted by the citizens of Alabama to
10 manage the State's resources in a manner compatible with the
11 environment and the health and welfare of the citizens of the
12 State; and

13 WHEREAS, ADEM oversees a comprehensive and
14 coordinated program of environmental management capable of
15 protecting Alabama's citizens from environmental and health
16 hazards; and

17 WHEREAS, ADEM has an exemplary record of applying
18 its regulatory programs in a fair and consistent manner; and

19 WHEREAS, Alabama depends on strong, viable
20 businesses to provide jobs, stability, and tax revenue for its
21 diverse communities; and

22 WHEREAS, businesses which comply with all applicable
23 federal, state, and local environmental obligations should be
24 free to operate without persistent interference from the

1 United States Environmental Protection Agency (EPA) and
2 others; and

3 WHEREAS, EPA has applied its enforcement authority
4 arbitrarily and unfairly in some of its activities in North
5 Birmingham and Tarrant; and

6 WHEREAS, EPA has proposed the "35th Avenue Site" in
7 North Birmingham for inclusion on the National Priority List
8 (NPL) of Superfund sites, despite inadequate technical and
9 legal basis for doing so and without the State's support; and

10 WHEREAS, EPA is attempting to impose a novel and
11 overbroad "air deposition" theory of Superfund liability which
12 would allow EPA to pursue industrial facilities for
13 contamination at non-contiguous properties on the basis of air
14 emissions which are subject to the federal Clean Air Act and
15 authorized by a valid air operating permit; and

16 WHEREAS, EPA's broad air deposition theory would
17 allow EPA to order businesses to clean up hazardous
18 contamination within an indefinite area before proving that
19 the business was actually responsible; and

20 WHEREAS, EPA is pursuing this air deposition theory
21 as an illicit means for funding policy initiatives which are
22 outside its regulatory authority; and

23 WHEREAS, EPA lacks legal authority under the
24 Comprehensive Environmental Response, Compensation, and

BJR97

1 Liability Act (CERCLA) or other federal law to impose this
2 theory of air deposition liability; and

3 WHEREAS, the Alabama Attorney General has submitted
4 comments to EPA vigorously objecting to EPA's methods of
5 investigating the 35th Avenue site, assessing its own
6 findings, proposing the site for inclusion on the NPL, and
7 identifying PRPs; and

8 WHEREAS, ADEM has objected to EPA proposing the site
9 for inclusion on the NPL; now therefore,

10 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
11 HOUSES THEREOF CONCURRING, That we urge the EPA to reconsider
12 its proposal to include the 35th Avenue site on the NPL
13 without the support of the State.

14 BE IT FURTHER RESOLVED, That we urge EPA to refrain
15 from acting outside of its statutory authority in North
16 Birmingham, Tarrant, and other communities in Alabama, and
17 specifically to abandon its questionable "air deposition"
18 theory of CERCLA liability.

19 BE IT FURTHER RESOLVED, That we urge the Attorney
20 General and ADEM to combat the EPA's overreach and request
21 that the Governor and Alabama's Congressional Delegation take
22 any and all steps within their power to ensure that EPA's
23 activities in Birmingham, and elsewhere throughout the state,
24 remain squarely within its express statutory authority and are

SJR97

1 appropriate for a science-based, regulatory agency entrusted
2 with regulating American businesses.

3 BE IT FURTHER RESOLVED, That we support the comments
4 and objections offered by the Attorney General and ADEM in
5 response to EPA's overreaching, and we support both the
6 Attorney General and ADEM as they continue in their legal
7 opposition to the EPA's overreach.

SJR97

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Kay Ivey

President and Presiding Officer of the Senate

Tommy Sharp

Speaker of the House of Representatives

SJR97

Senate 02-JUN-15

I hereby certify that the within Senate Joint Resolution
originated in and was adopted by the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Adopted: 03-JUN-15

By: Senator Waggoner

APPROVED June 9, 2015

TIME 5:00pm

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2015-426
Bill Num....: SJR-97

Recv'd 06/10/15 03:58psSLF

REPORT OF RULES COMMITTEE
This resolution having been referred by
the House to its standing committee on
_____ RULES _____ was acted upon
by such committee in session, and
returned therefrom to the House with
the recommendation that it be adopted.

Mac McPhee Chairman

AL-16-000-5363



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 29 2016

The Honorable Jeff Sessions
United States Senate
Washington, D.C. 20515

Dear Senator Sessions:

Thank you for your February 26, 2016, letter to the U.S. Environmental Protection Agency's Administrator, Gina McCarthy, and myself regarding the 35th Avenue Superfund Site (Site) located in Birmingham, Jefferson County, Alabama. We appreciate your attention to this issue, as well as that of the State of Alabama (State). Based on our reading of your letter, we understand you to be raising three concerns related to the EPA's proposed listing of the Site on the National Priorities Listing (NPL) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund): (1) the Agency's designation of Potentially Responsible Parties (PRPs) through an "air deposition" theory of liability; (2) the Agency's efforts related to environmental justice; and (3) the Agency's coordination with the State prior to and following proposal of the Site to the NPL.

The EPA believes that it is critical that the State and all of the parties involved understand that the listing of a site on the NPL and enforcement against PRPs under any type of liability theory are separate and distinct activities based on different authorities under Superfund. Superfund liability is not considered when evaluating a site for listing on the NPL, nor is liability established or apportioned based on the decision to propose or finalize a site on the NPL.

With respect to your concerns about the EPA's enforcement approach and/or theories of liability against any PRP associated with the Site, unfortunately the EPA cannot engage in any level of discussions with third parties, including members of Congress, as articulated in the Memorandum from Granta Y. Nakayama, dated March 8, 2006, and titled "Restrictions on Communicating with Outside Parties Regarding Enforcement Actions" <https://www.epa.gov/enforcement/restrictions-communicating-outside-parties-regarding-enforcement-actions>. However, I am able to address the remaining concerns raised in your letter, as well as any additional questions you may have regarding the environmental conditions and the EPA response efforts to date at the Site.

On September 22, 2014, the EPA proposed to include the 35th Avenue Site on the NPL. The identification of sites for listing on the NPL is intended to guide the EPA in: a) determining which sites warrant further investigation to assess the nature and extent of the human health and environmental risks associated with a site; b) identifying what CERCLA-financed remedial actions may be appropriate; c) notifying the public of sites the EPA believes warrant further investigation; and d) serving notice to PRPs that the EPA may initiate CERCLA-financed remedial action. As the D.C. Circuit Court of Appeals has held, the NPL serves primarily as an informational tool for use by the EPA in identifying, quickly and inexpensively, those sites that appear to present a significant risk to public health or the environment. See *CTS Corp. v. EPA*, 759 F.3d 52, 56 (D.C. Cir. 2014); *Carus Chem. Co. v. EPA*, 395 F.3d 434, 441 (D.C. Cir. 2005); *Wash. State Dep't of Transp. v. EPA*, 917 F.2d 1309, 1310 (D.C. Cir. 1990).

In order to determine whether a site may be proposed or added to the NPL, the EPA uses the Hazard Ranking System (HRS). Sites that score greater than 28.50 based on the HRS are eligible for the NPL. The HRS score

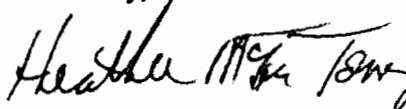
scientifically reflects an assessment of the relative threat to human health and the environment posed by the release or threatened release of hazardous substances at a site. The 35th Avenue site's score at the time of proposal to the NPL was 50.00. Consistent with CERCLA, this score relied solely on the Site's soil exposure pathway, due to widespread soil contamination in the residential neighborhoods of Fairmont, Collegeville and Harriman Park. This was based on results of sampling events conducted in 2013 and 2014 in these neighborhoods that revealed elevated concentrations of lead, arsenic and Benzo (a) pyrene. Environmental justice concerns are not a part of a site's HRS score or used to qualify a site for NPL listing.

In the HRS supporting materials the EPA identified several facilities as the possible sources of contamination detected in residential soil due to their proximity to the Area of Contamination (AOC), the type of plant, the processes utilized at the plant, and the history of releases contributing to the commingled contamination of the AOC over the period of many years. Identification of potential sources of contamination is a typical part of HRS supporting materials. This does not, however, establish liability. Liability is established at a site through a separate process using different CERCLA authorities. While the Agency's investigation is still underway, the presence of contaminants in the residential neighborhoods is potentially due to a number of routes, including use of solid waste as fill material, storm water runoff from facilities, continued migration of contaminants from frequent flooding in the area, and facility air emissions. These emissions occurred prior to, in absence of or in exceedance of Clean Air Act permits.

A public comment period on the proposed NPL listing was held from September 22, 2014 to January 22, 2015. The EPA received numerous public comments both in support and in opposition to a final listing, including letters from the Alabama Department of Environmental Management (ADEM) and the Alabama Attorney General. In those letters, the State requested review of the EPA's decision through the dispute resolution process outlined in the July 25, 1997 OSWER memorandum titled, "Coordinating with the States on National Priorities List Decisions – Issue Resolution Process." Prior to making a final listing decision, the EPA must consider all comments received on a proposed NPL site and respond to significant comments in writing. After consideration of all comments, if the Site still qualifies for listing on the NPL, the EPA will welcome informal deliberations with ADEM. Depending on the outcome of those deliberations, as appropriate, the EPA will follow the process outlined in the above "Issue Resolution Process" memorandum. The EPA is committed to consultations with the State prior to making any future decision, for example, to add the Site on the NPL through a final rule, to pursue additional cleanup approaches, or to withdraw the proposal to list the Site.

I believe that we share the common goal to protect and improve the quality of life for Alabama residents. As such, the EPA welcomes any further discussions on the proposed listing of the 35th Avenue site on the NPL or any other issues related to the environmental conditions and ongoing EPA response efforts at the Site. I have directed my staff to arrange for a meeting with your office at your earliest convenience. If you have additional questions please contact Allison Wise at (404) 562-8327.

Sincerely,



Heather McTeer Toney
Regional Administrator

cc: Mathy Stanislaus, OLEM

Franklin Hill, Superfund Division

Congress of the United States
Washington, DC 20515

February 16, 2016

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator McCarthy,

We write today to request that the US Environmental Protection Agency (EPA) clarify its policy on forest biomass in the final Model Rule for state implementation plans (SIP) under the Clean Power Plan (CPP). As a renewable form of energy that provides jobs for our rural communities, our states deserve to know EPA's expectations for how biomass can be utilized to meet the standards laid out in the CPP.

Given the strong interest that states and biomass stakeholders - including private landowners, biomass producers and utilities—have expressed regarding treatment under the CPP, we are encouraged that EPA announced a biomass stakeholder workshop for April 7, 2016. However, we believe EPA should meet with stakeholders in advance, and take their feedback in order to find common ground on its policy for forest biomass before the workshop takes places. Providing states with regulatory certainty regarding biomass' treatment under the CPP is imperative as states begin to consider individual SIPs.

Forest biomass is a renewable energy source that promotes healthy forestry practices and offers an environmental solution for organic material that would otherwise be left to decompose. Additionally, this organic material – which can include tree trimmings, forest debris and scrap lumber – has no other alternative market. By removing upwards of 65 million tons of forest debris every year, the biomass power industry provides significant benefits to the vitality and health of our nation's forests.

While EPA has been generally supportive of biomass energy in the past, we request that EPA specifically provide regulatory guidance for states to incorporate both biomass heat and power within individual SIPs. We were pleased to read a November 16, 2015 document written by EPA Acting Assistant Administrator Janet McCabe that states "biomass and bioenergy products in the power system can be an integral part of state programs and foster responsible land management and renewable energy."¹ With this being said, it is important that EPA recognizes the carbon benefits of biomass energy and treats it the same as other forms of renewable energy under the CPP.

Thank you for your time. We look forward to your response.

Sincerely,



Bruce Westerman
Member of Congress



Ann McLane Kuster
Member of Congress

¹ <https://blog.epa.gov/blog/2015/11/the-role-of-biomass/>

Walter B. Jones
Walter Jones
Member of Congress

Dan Benishek
Dan Benishek, M.D.
Member of Congress

Ander Crenshaw
Ander Crenshaw
Member of Congress

Ryan Zinke
Ryan Zinke
Member of Congress

Rod Blum
Rod Blum
Member of Congress

Steve Pearce
Steve Pearce
Member of Congress

Jaime Herrera Beutler
Jaime Herrera Beutler
Member of Congress

Ralph Abraham
Ralph Abraham
Member of Congress

Scott Tipton
Scott Tipton
Member of Congress

John Garamendi
John Garamendi
Member of Congress

Richard M. Nolan
Richard Nolan
Member of Congress

Derek Kilmer
Derek Kilmer
Member of Congress

Mark Pocan
Mark Pocan
Member of Congress

Collin Peterson
Collin Peterson
Member of Congress

Chellie Pingree
Chellie Pingree
Member of Congress

Ann Kirkpatrick
Ann Kirkpatrick
Member of Congress

Peter DeFazio
Peter DeFazio
Member of Congress

Gwen Graham
Gwen Graham
Member of Congress

H. Morgan Griffith

H. Morgan Griffith
Member of Congress

Jim Costa

Jim Costa
Member of Congress

Kristi Noem

Kristi Noem
Member of Congress

Terri Sewell

Terri Sewell
Member of Congress

Garret Graves

Garret Graves
Member of Congress

Brad Ashford

Brad Ashford
Member of Congress

Reid Ribble

Reid Ribble
Member of Congress

Suzan Durbene

Suzan Durbene
Member of Congress

Richard Hanna

Richard Hanna
Member of Congress

Denny Heck

Denny Heck
Member of Congress

Ted Yoho

Ted Yoho
Member of Congress

Kurt Schrader

Kurt Schrader
Member of Congress

J. French Hill

J. French Hill
Member of Congress

Sean Patrick Maloney

Sean Patrick Maloney
Member of Congress

Earl L. "Buddy" Carter

Earl L. "Buddy" Carter
Member of Congress

Michael K. Simpson

Michael K. Simpson
Member of Congress

Lou Barletta

Lou Barletta
Member of Congress

Dan Newhouse

Dan Newhouse
Member of Congress

Elise M. Stefanik

Elise Stefanik
Member of Congress

Bruce Poliquin

Bruce Poliquin
Member of Congress

16-000-4574



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 22, 2016

OFFICE OF
AIR AND RADIATION

The Honorable Bruce Westerman
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Westerman:

Thank you for your February 16, 2016, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the role of forest biomass in the final Model Rule under the Clean Power Plan. The Administrator asked that I respond on her behalf.

On February 9, 2016, the Supreme Court granted a motion to stay the Clean Power Plan, which is pending judicial review before the U.S. Court of Appeals for the D.C. Circuit. As a result of that action, states are not currently required to submit a state plan or a request for extension by September 6, 2016. For the states that voluntarily decide to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, the EPA will continue to provide tools and support.

The President's Climate Action Plan highlights the critical role that America's forests play in addressing carbon pollution in the United States and fosters the expansion of renewable energy. Consistent with this Plan, the EPA recognizes that the use of some kinds of biomass to produce energy has the potential to offer a wide range of environmental benefits, including carbon benefits. Many states also recognize the importance of carbon-beneficial biomass and forestry practices, and already exhibit a variety of policies and programs that both address climate change and foster increased biomass utilization as part of their energy future.

As mentioned in your letter, to support State efforts to further evaluate the role of biomass in stationary source carbon strategies, the EPA held a public workshop on April 7, 2016, for States and stakeholders to share their successes, experiences and approaches to deploying biomass in ways that have been, and can be, carbon beneficial. This workshop fostered a constructive dialogue on ways that states can consider the potential use of biomass in efforts to address carbon pollution and promote renewable energy solutions. As in the case of other scientific and policy processes, in preparation for the biomass workshop we consulted with states, relevant stakeholders and other experts to exchange information and discuss examples of existing and potential carbon-beneficial biomass programs and activities.

Again, thank you for your letter. We have placed your comments in the docket for this rulemaking. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or 202-564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", with a stylized flourish at the end.

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

February 9, 2016

Administrator Gina McCarthy
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator McCarthy:

We write to express our concern regarding the adverse health impacts associated with freight transportation on low-income communities and communities of color. We encourage the Environmental Protection Agency (EPA) to take bold steps to alleviate air pollution connected with goods movement in order to protect vulnerable communities.

Our nation's goods movement network is a critical and indispensable driver of our economy. At the same time, air pollution from ports and freight transportation is a major concern which threatens the environment, public health, and quality of life for over 58 million people that live near major freight ports, freight transport corridors, and related facilities in the United States. Many of these goods movement facilities neighbor vulnerable communities and are associated with unacceptable levels of cancer, life-threatening asthma, and other chronic diseases. According to the EPA's Environmental Justice Screen online tool, low-income, heavily African American and Latino communities adjacent to our sea and inland ports, and along the nearby highway corridors on which diesel trucks travel, are the most severely affected.

While we applaud the steps the EPA has taken to alleviate air pollution in environmental justice communities through the Environmental Justice program and through emission reduction programs for stationary sources, mobile sources that converge at U.S. ports, railyards, and transit centers remain a significant contributor of particulate and ozone-causing pollution in many vulnerable communities, raising major environmental justice concerns. This is because the regulatory framework for freight lags behind other national air quality initiatives, allowing ports and goods movement activities to operate without adequate protections for communities in port regions across the country.

We encourage the EPA to act before the end of this administration to promote the use of zero emissions transportation technology and to minimize toxic freight emissions plaguing these environmental justice communities. The EPA can take action in the following ways:

- Reduce emissions at sea and inland ports, and the freight corridors that serve them, by developing new national nitrogen oxides emission standards for trucks, locomotives, and ships, and by finalizing strong standards for greenhouse gas emissions and fuel efficiency for medium and heavy-duty trucks;
- Utilize existing National Environmental Policy Act (NEPA) protocols whenever and wherever freight-related infrastructure projects are proposed to ensure that the health of communities is taken into account in the decision-making process;

February 9, 2016
Administrator McCarthy

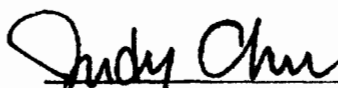
- Assist and direct state and local governments to address freight-generated pollution through source-specific measures in Clean Air Act state implementation plans to reduce toxic exposure; and
- Engage communities affected by freight pollution in each EPA Region of the country so that they have a voice in decisions about appropriate emission reduction goals and the actions necessary to achieve those reductions.

We appreciate the significant work that the EPA is doing to clean up air pollution in our communities and reduce climate change causing pollution with the Clean Power Plan and the heavy-duty truck emissions and fuel efficiency standards. We look forward to seeing EPA proposals for further actions in order to protect the hardest-hit environmental justice communities throughout our country. Thank you for your prompt attention to our concerns and we look forward to your response.

Sincerely,



ALAN LOWENTHAL
Member of Congress



JUDY CHU
Member of Congress



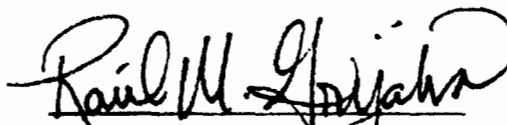
KAREN BASS
Member of Congress



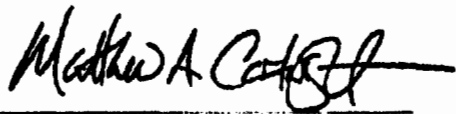
MARK DESAULNIER
Member of Congress



LOIS CAPPS
Member of Congress



RAUL M. GRIJALVA
Member of Congress



MATT CARTWRIGHT
Member of Congress



JANICE HAHN
Member of Congress

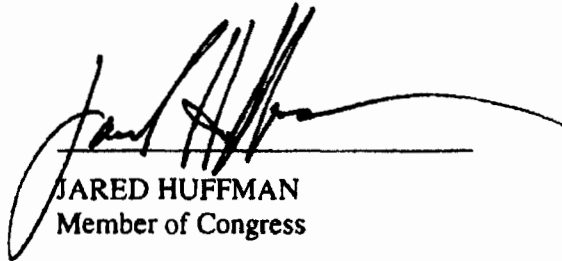
February 9, 2016
Administrator McCarthy



MICHAEL M. HONDA
Member of Congress



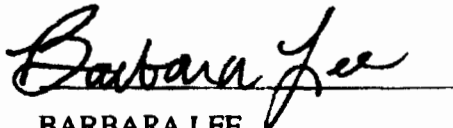
MARK POCAN
Member of Congress



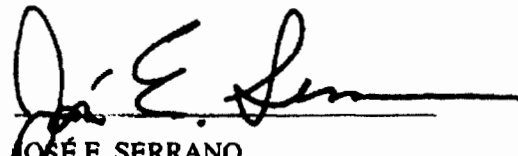
JARED HUFFMAN
Member of Congress



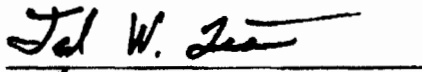
LUCILLE ROYBAL-ALLARD
Member of Congress



BARBARA LEE
Member of Congress



JOSÉ E. SERRANO
Member of Congress



TED LIEU
Member of Congress



MARK TAKAI
Member of Congress



HELLIE PINGREE
Member of Congress

16-000-4322



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 13 2016

OFFICE OF
AIR AND RADIATION

The Honorable Judy Chu
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Chu:

Thank you for your February 9, 2016 letter to the U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the adverse health impacts associated with freight transportation on low-income communities and communities of color. The Administrator asked that I respond on her behalf.

The EPA shares your concerns regarding impacts of air pollution from some of the transportation and other heavy duty equipment that we rely on to transport our nation's freight. We have taken many steps that have resulted in real progress in reducing air pollution from these sources, and we are working on new and innovative ways to go even further to deliver clean air to the communities most affected by these sources of air pollution. The enclosed document describes some the efforts EPA has undertaken and some of the work we are continuing to do to address this important issue.. Additionally, I appreciate your suggestions to improve the efficacy of our efforts and will certainly take them into consideration as we move forward.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or 202-564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe".

Janet G. McCabe
Acting Assistant Administrator

Enclosure

Current EPA Efforts Addressing Health Impacts of Air Pollution at our Nation's Ports

Current Regulation

The EPA is currently implementing a suite of stringent regulations which reduce emissions associated with goods movement, including emissions standards and fuel requirements that apply to trucks, nonroad equipment, locomotives, and ships. Some of these standards, such as the most recently revised standards for trucks, began to take effect in 2007; others were recently revised and began to apply more recently. The standards for all of these programs, however, are projected to result in very significant emission reductions when the standards are fully phased in through fleet turnover. The EPA's current regulations reduce emissions from new diesel trucks and nonroad engines by more than 90% compared to previous standards. For large ships, the EPA adopted a coordinated strategy consisting of Clean Air Act regulations and designation of the North American and U.S. Caribbean Sea Emissions Control Areas through the International Maritime Organization. All ships operating in these areas are required to use cleaner fuel and new ships built beginning in 2016 will be required to use advanced diesel engine technology. When fully implemented, the coordinated strategy is projected to reduce nitrogen oxides (NOx) emission rates by 80% and particulate matter (PM) emission rates by 85% compared to the previous standards. For other marine diesel engines and for locomotives, the EPA's most stringent NOx and PM emissions standards began applying to new engines and equipment built in 2014 and 2015, respectively. When fully phased in, these standards will reduce NOx emissions from these engines by as much as 80% and PM emissions by as much 90% compared to the previous standards. All of these standards are reducing diesel exhaust emissions, which are toxic and contribute to ozone and PM pollution.

New Regulation

The EPA continues to pursue new regulatory opportunities to reduce the environmental impact of freight transportation through vehicle standards. This summer the EPA will be finalizing a second phase of more stringent greenhouse gas emissions and fuel efficiency standards for medium- and heavy-duty vehicles. The proposed "Phase 2" program would cut greenhouse gas emissions from these vehicles by approximately 1 billion metric tons. Phase 2 builds on and goes beyond the first phase of the program, which itself is expected to reduce carbon dioxide emissions by about 270 million metric tons over the life of vehicles built for the 2014 to 2018 model years. The EPA is also aware of potential opportunities to further reduce NOx emissions from heavy-duty vehicles, which may be achieved through future standards.

NEPA and EO 12898

We agree that the National Environmental Policy Act (NEPA) provides the EPA an opportunity to ensure that the health of communities impacted by freight-related infrastructure projects is appropriately considered during the decision-making process. Under section 309 of the Clean Air Act (42 U.S.C. 7609), the EPA is directed to review and comment publicly on the environmental impacts of federal activities, including actions for which environmental impact statements are prepared. As part of this process, the EPA reviews whether adequate consideration was given to potential direct, indirect, and cumulative adverse health effects of the proposed action. Specific consideration is given to adverse health impacts affecting minority populations and low-income populations, pursuant to Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (1994) and the accompanying Presidential Memorandum. The Memorandum calls for the EPA to "ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects."

Health Impact Assessments (HIA) are an effective decision support tool to factor children's health and environmental justice considerations into the decision-making process. The EPA is currently considering the use of HIA in the NEPA review process¹, including reviews of freight-related infrastructure projects. More specifically, we are working to:

- develop screening and scoping tools for use by NEPA reviewers to identify proposals that could benefit from an HIA or HIA elements, based on the proposal's potential for significant impacts on human health;
- develop web-based training to educate NEPA reviewers on HIA, the HIA process, and the role HIA may play in the NEPA process; and
- partner with a federal agency (or agencies) to conduct a pilot project integrating HIA into a NEPA review document, using general HIA best practices identified in EPA's systematic review of health impact assessments in the U.S.² and lessons learned from the HIA field practice for integrating HIA into NEPA.

State Implementation Plans (SIPs)

Under the Clean Air Act, states are required to submit state air quality implementation plans to reduce specific pollutants, including ozone and PM, in areas that are found to have air quality worse than the national ambient air quality standards (NAAQS). SIPs include an inventory of all the sources of the pollutant and allows for local control measures to be adopted by the state when needed, such as measures to replace older diesel powered vehicles and equipment. The EPA has developed models and guidance to calculate diesel emission inventories and control measures. For example, EPA's emissions model, the Motor Vehicle Emission Simulator (or MOVES model), allows state and local governments to estimate the amount of PM that will result from on-road vehicles in the future, including trucks, either at a regional scale or even for a specific highway project. EPA's MOVES model also includes a non-road component that estimates pollution from sources such as cargo handling and construction equipment.

Transportation Conformity

The Clean Air Act also requires a transportation conformity process which ensures that transportation activities do not cause or contribute to air quality violations or delay timely attainment of the NAAQS or interim milestones in nonattainment and maintenance areas for ozone and PM standards. In addition, a transportation conformity determination that includes a "hot-spot analysis" must be made in PM nonattainment and maintenance areas for new federally funded or approved transportation projects that significantly increase diesel vehicles, such as a major highway expansion with a significant increase in the number of diesel trucks. A hot-spot analysis is an analysis of a transportation project's impact on future localized particulate matter concentrations and a comparison of those concentrations to the relevant NAAQS. The EPA has developed PM hot-spot guidance for making such demonstrations for transportation projects, and to determine how increases in emissions will affect air quality in the local area around the project, e.g., the neighborhood next to a freight corridor. This technical guidance can also be applied in NEPA analyses for projects in areas affected by freight-generated pollution.

¹ See U.S. EPA, *Promoting the Use of Health Impact Assessment to Address Human Health in Reviews Conducted Pursuant to the National Environmental Policy Act and Section 309 of the Clean Air Act* (Nov. 2015).

² Rhodus, J., F. Fulk, Brad Autrey, S. O'Shea, and A. Roth. (2013) A Review of Health Impact Assessments in the U.S.: Current State-of-Science, Best Practices, and Areas for Improvement. EPA/600/R-13/354. Washington, DC: U.S. Environmental Protection Agency.

Clean Diesel Grants and Innovative Partnerships

In addition to our regulatory programs, the EPA has Diesel Emissions Reduction Program (DERA) grants and its SmartWay Transport Partnership program that reduce emissions from freight movement. The EPA prioritizes goods movement and ports in its DERA grants. With our Regional offices, we have awarded 150 DERA grants at or near ports totaling over \$175M since 2008 for projects such as buying filters that will catch harmful pollutants before they're released from freight-carrying trucks, replacing older engines with newer and cleaner engines, and purchasing cleaner hybrid vehicles to replace old vehicles.

The EPA launched the voluntary SmartWay Transport Partnership in 2004 to accelerate the adoption of advanced technologies and strategies in our freight sector to save fuel, and reduce GHGs and other emissions. Since 2004, our 3,000 industry-leading partners have saved over 73 million tons of carbon dioxide, over 1.4 million tons of NOx and 59,000 tons of PM. Complementing these programs, the EPA Regional offices collaborate with stakeholders to lead Clean Diesel Collaboratives - partnerships among leaders from federal, state and local government, the private sector, and environmental groups that provide a forum to address diesel emission health concerns and diesel emission reduction activities including those associated with ports and freight movement.

Continued Engagement and Future Efforts

Despite the considerable progress we have made in reducing air pollution from ports and freight movement activities, through regulations and from voluntary efforts, more must be done to improve the air that people breathe in communities near ports and goods movement operations. These communities, often composed of minorities and people of low income, are disproportionately impacted by health effects we know are associated with air pollution ranging from respiratory illness to premature death. EPA listened to and agrees with a broad array of stakeholders that we need to ensure that cleaner equipment is used at and around ports. For this reason, the EPA took action in 2014 through the Clean Air Act Advisory Committee process to convene a group of experts and interests - including environmental and community organizations, leaders from of state and local governments, port authorities and their private sector business partners - to advise the EPA on the key elements of a voluntary EPA-led National Ports Initiative that will improve air quality in communities near ports and for port workers. A cross-Agency collaboration of the EPA Headquarters and Regional program staff are working in partnership to support this group in identifying cost effective options, including zero-emissions technologies, to reduce emissions from goods movement operations and assist communities to have a stronger voice in environmental stewardship. And with input from leaders of organizations that represent people who live and work near port and freight movement operations, we are developing a set of tools to facilitate effective communication and engagement between local communities whose air quality is impacted by goods movement, and neighboring operators of ports. We plan to be piloting these tools later this year. Based on the recommendations we expect to receive from this advisory group later this year, the EPA will continue to collaborate in designing and implementing an effective initiative that will help ports reduce emissions so people living near them and working in them will breathe healthier air as a result.

16-000-5645



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

MAR 18 2016

OFFICE OF THE
EXECUTIVE ADJUTANT GENERAL

The Honorable Lamar Smith
Chairman
Committee on Science, Space, and Technology
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letters of February 23, and March 11, 2016, requesting certain information relating to travel by U.S. Environmental Protection Agency employees. This letter is an initial response.

We appreciated the constructive teleconference that our staff recently had with your staff and the clarifications your staff provided regarding the four categories of information that you are seeking. The EPA recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions, and is committed to continuing to work with your staff on how best to accommodate the Committee's interests in the documents requested in your letter.

Your letter requests documents and communications referring or relating to Acting Assistant Administrator Janet McCabe's travel and associated expenses over a specified time period. As explained to your staff, we have begun collecting the travel documentation for the Acting Assistant Administrator's travels and have initiated a search for relevant communications. EPA changed travel systems on October 1, 2014 going from GovTrip to Concur. The travel documentation search involves both systems and will therefore take additional time. We will provide documents responsive to this question on a rolling basis.

Your letter also requests EPA policies or procedures related to official travel and expenses. We are enclosing several documents responsive to this request (Enclosures 1 - 6).

Enclosure 1 is the EPA Official Travel Manual. The Federal Travel Regulation (FTR), as amended, is the first source of reference for all federal travel, e.g., travel of employees with special needs, permanent or temporary change of official station. Additionally, the FTR grants to agencies discretionary authority to establish specific internal policies. The Official Travel Manual is such a policy. To minimize repetition, this policy does not repeat each travel entitlement that is listed in the FTR. This policy discusses the guidelines for the EPA's discretionary allowances. All EPA employees and travel authorizing officials shall know and

comply with the FTR and the EPA travel policies and procedures. This policy applies to the EPA employees and other federal employees' travel that the EPA funds and travel under statutes that authorize the EPA to use appropriated funds to directly pay for travel of nonfederal individuals. Additionally, this policy addresses travel that nonfederal sources fund for the EPA employees.

Enclosure 2 is the policy procedure entitled Relocation Allowances for Change of Official Station. Relocation only occurs when existing employees at a duty location cannot satisfactorily perform official agency business. This policy: requires that written authorization must precede the occurrence of official relocation travel; provides information for creating travel authorizations and processing payments to eligible employees and new appointees for reimbursement of expenses incurred while traveling to a change of official station; interprets requirements and entitlements in a manner that balances the need to ensure that change of official station is conducted responsibly with minimal administrative costs; provides procedures for the EPA Relocation Counselors, employees and new appointees; and establishes the EPA guidelines for official domestic and international relocation allowances.

Enclosure 3 is a delegation of authority related to domestic travel. Domestic travel is official travel within the continental United States (the 48 contiguous States and the District of Columbia) and non-foreign areas (the states of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories and possessions of the United States). This delegation authorizes agency officials to approve domestic travel for the EPA employees, excluding employees of the EPA's Office of Inspector General, and individuals receiving invitational travel orders as authorized by the FTR, published by the General Services Administration at 41 Code of Federal Regulations, Chapters 300 through 304. These regulations implement statutory requirements and Executive branch policies for federal civilian employees and others authorized to travel at federal government expense. The document also provides any applicable limitations.

Enclosure 4 is a delegation of authority related to international travel. International travel is official business to, from, and within areas outside the 50 states; the District of Columbia; the Commonwealths of Puerto Rico and the Northern Mariana Islands; and territories of the United States. This delegation authorizes agency officials to approve international travel for the EPA employees, excluding employees of the EPA's Office of Inspector General, and individuals receiving invitational travel orders as authorized by the Federal Travel Regulation, published by the General Services Administration at 41 Code of Federal Regulations, Chapters 300 through 304. These regulations implement statutory requirements and Executive branch policies for federal civilian employees and others authorized to travel or relocate at federal government expense. The document also provides any applicable limitations.

Enclosure 5 is a guidance document related to emergency travel. The Emergency Travel Guidance document provides information on travel policies and procedures for employees who are required to travel during a national disaster, emergency, or a pandemic health crisis. This document provides only quick guidance during an emergency situation. While this document answers frequently asked questions about emergency travel, employees are advised to contact their approving official for more detailed policy guidance.

16-000-5645

Enclosure 6 contains answers to frequently asked questions about rides. The RIDES Frequently Asked Questions document provides information related to ethics, appropriations and liability. As part of official duties, EPA employees may find themselves driving or riding in a government-owned vehicle, rental car or personally owned vehicle. Additionally, employees may be asked to give or share rides with non-federal employees (e.g., State or Tribal officials, contractors, family members). This document answers frequently asked questions about rides.

Your letter further requests a list of certain types of EPA employees who routinely commute by aircraft to or from their duty station. As a general matter, the government is not responsible for providing transportation to or from an employee's duty station (or reimbursement for such transportation), and, therefore, the EPA does not have information on how every employee commutes to or from their duty station. The agency does provide transit and parking subsidies in certain situations (e.g., for those who commute by mass transit) and has some commuting information from employees who apply for these subsidies. Those programs do not subsidize the cost of commuting by airplane, however, so those programs are not likely to have additional information on employees who may commute by airplane (if any). Finally, in 2014, the EPA administered a GSA survey regarding the modes of transportation used by employees to commute to or from their duty station during a typical week. The agency received 6,944 responses (approximately 46% of the agency at that time) to the survey. Only two respondents indicated that they utilized an "other" form of transportation and indicated airplane or air travel as a mode. Because the survey is anonymous, the agency is not able to identify those two individuals.

Finally, your letter requests certain official communications to EPA employees referring or relating to Executive Order 13693, *Planning for Federal Sustainability in the Next Decade*, signed by President Obama on March 19, 2015. In addition to the announcement of the Executive Order and associated implementing instructions issued by the White House, we have identified two EPA documents responsive to your request. Enclosure 7 is a memorandum signed by A. Stanley Meiburg, Acting Deputy Administrator, titled "Implementation of Executive Order 13693: Planning for Federal Sustainability in the Next Decade - EPA Roles and Responsibilities." Enclosure 8 is a memorandum from Karl Brooks, at the time both the Acting Assistant Administrator of the Office of Administration and Resource Management and the EPA's designated Chief Sustainability Officer for purposes of Executive Order 13693.

Since the June 15, 2015, memo, the EPA has continued to work to meet or exceed its goals to reduce greenhouse gas emissions, energy intensity and water use intensity, as well as support sustainable buildings, renewable energy, sustainable purchasing, energy performance contracts, electronics stewardship and climate resiliency through a variety of activities. Looking ahead, the EPA will continue working to reduce greenhouse gas emissions, energy, water and waste, as well as support sustainable buildings, green purchasing, electronics stewardship and climate resiliency through a variety of strategies that will be released this summer as part of the agency's updated Strategic Sustainability Performance Plan. Past plans outlining the EPA's efforts and progress to meet sustainability goals can be found on the EPA website at <http://www.epa.gov/greeningeпа/epa-strategic-sustainability-plans>.

Again, thank you for your letters. If you have any further questions, you may contact me or your staff may contact Tom Dickerson in the EPA's Office of Congressional and Intergovernmental Relations at dickerson.tom@epa.gov or (202) 564-3638.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Bloom', followed by a long horizontal line extending to the right.

David A. Bloom
Deputy Chief Financial Officer

Enclosures

cc: The Honorable Eddie Bernice Johnson
Ranking Member

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

www.science.house.gov

March 11, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy,

The Committee on Science, Space, and Technology continues its oversight of travel by U.S. Environmental Protection Agency (EPA) employees. I am writing to reiterate my prior request dated February 23, 2016.¹ In the prior letter, I asked that the EPA provide requested documents no later than March 8, 2016.² To date, the EPA has not provided any documents or communications responsive to the request, nor has the EPA provided any information on when the Committee may expect to receive a response.

After not receiving any updates from the EPA on the status of its response, Committee staff reached out to the agency on March 8, 2016, to obtain information on steps the EPA has taken to respond to the Committee's letter. EPA staff failed to provide even as much as a time frame for a response to the Committee's request or provide any information on what progress, if any, the EPA has made on searching for and gathering materials responsive to the request. During the same conversation, the EPA failed to provide any assurances that it will provide a timely response to the Committee's request.

According to an interview published this week in *Congressional Quarterly*, Acting Assistant Administrator of EPA's Office of Air and Radiation, Janet McCabe claims that "[w]e are not slowing down" when it comes to EPA regulations.³ Likewise, it appears that Acting Assistant Administrator McCabe herself is not slowing down. She continues to devote extensive resources and taxpayer money to traveling around the country promoting EPA's overreaching regulatory agenda while this Committee's request lingers with no anticipated date for a response.

¹ Letter from Hon. Lamar Smith, H. Comm. on Science, Space, & Tech., to Hon. Gina McCarthy, Administrator, EPA. (Feb. 23, 2016).

² *Id.*

³ Ed Felker, *25 Most Influential on Capitol Hill*, CONGRESSIONAL QUARTERLY, (Mar. 7, 2016).

Hon. Gina McCarthy
March 11, 2016

In my February 23, 2016, letter to you, I raised concerns regarding Acting Assistant Administrator McCabe routinely commuting to work in Washington, DC, from her home in Indianapolis, Indiana.⁴ Last year, President Obama issued an Executive Order, calling on the heads of each Executive Branch department and agency to "consider the development of policies to promote sustainable commuting."⁵ In light of President Obama's 2015 Executive Order, as well as McCabe's role as the EPA's chief proponent of the Clean Power Plan, McCabe's routine travel raises significant questions as to her commitment toward furthering the reduction of carbon emissions that she promotes in her official capacity on the taxpayer's dime.

The concerns raised in my February 23, 2016, letter are not new. Recently, the EPA Office of Inspector General (OIG) issued an audit, concluding that a former Region 9 Administrator traveled home to southern California from his office in San Francisco, accumulating \$69,000 in excessive trips from October 2006 through January 2009.⁶ The former Region 9 Administrator claimed ineligible expenses associated with his travel, such as meals, mileage, and incidental expenses at a cost of nearly \$4,000 to taxpayers.⁷ In its report, the EPA OIG identified a series of recommendations to the EPA to improve the agency's oversight of routine travel by agency officials.⁸

The Committee expects a full and complete response from the EPA, including production of the requested documents and communications so that the Committee can fulfill its oversight responsibilities. I reiterate all of the requests contained in the Committee's February 23, 2016, letter. Please provide all requested materials to the Committee as soon as possible, but by no later than March 18, 2016, at 12:00 p.m. If the EPA does not provide all of the requested materials, the Committee will consider the use of the compulsory process.

The Committee on Science, Space, and Technology has jurisdiction over environmental and scientific programs and "shall review and study on a continuing basis laws, programs, and Government activities" as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Lamar Echols or Caroline Ingram of the Committee Staff at 202-225-6371. Thank you for your attention to this matter.

⁴ Hon. Lamar Smith, *supra* note 1.

⁵ Executive Order 13693, available at <https://www.whitehouse.gov/the-press-office/2015/03/19/executive-order-planning-federal-sustainability-next-decade> (last visited Mar. 10, 2016).

⁶ See Environmental Protection Agency Inspector Gen., *EPA Needs Better Management Controls for Approval of Employee Travel* (Sept. 22, 2015) (15-P-0294), at 4, available at <http://www.epa.gov/sites/production/files/2015-09/documents/20150922-15-p-0294.pdf> (last visited Mar. 10, 2016).

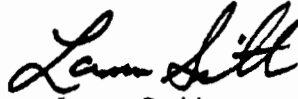
⁷ *Id.*

⁸ *Id.*

AL-16-000-5645

Hon. Gina McCarthy
March 11, 2016

Sincerely,

A handwritten signature in black ink, appearing to read "Lamar Smith". The signature is fluid and cursive, with the first name "Lamar" and last name "Smith" clearly distinguishable.

Lamar Smith
Chairman

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member, House Committee on
Science, Space and Technology

16-000-5645

From: Brooks, Karl

Sent: Wednesday, September 02, 2015 4:06 PM

To: Regional Administrators <RegionalAdministrators@epa.gov>

Cc: DRA <DRA@epa.gov>; ARA <ARA@epa.gov>; Amon, Dan <Amon.Dan@epa.gov>; Noga, Vaughn <Noga.Vaughn@EPA.GOV>

Subject: Sustainability and Executive Order 13693 - Section 10

MEMORANDUM

SUBJECT: Sustainability and Executive Order 13693 - Section 10

FROM: Karl Brooks
Acting Assistant Administrator
Office of Administration and Resources Management

TO: Regional Administrators

As you may know, President Obama issued Executive Order 13693 on March 19, 2015. The E.O. Section 10 speaks to regional coordination, it states that within 180 days of the Executive Order (Sep. 21, 2015):

- Each EPA/GSA regional office, in coordination with the regional Federal Executive Boards, the Department of Defense, and other agencies convene regional interagency workgroups to address:
 - Fleet issues
 - Primarily fueling infrastructure for E-85, electric, and natural gas vehicles
 - Water resource management and drought response opportunities
 - Climate change preparedness and resilience planning
 - Collective procurement of clean energy for multiple agency buildings

To meet the deadline and begin the regional coordination effort, the Council of Environmental Quality and the Office of the Federal Chief Sustainability Officer are hosting a kick-off call on September 9, 2015 from 11 am to 12 pm eastern time for all GSA/EPA Regional Administrators. (call-in number to be announced). I suggest you ask your Assistant Regional Administrator and/or sustainability director to join you for the call.


E.O. 13693 section 10 regional workgroups should support the implementation of the E.O. at the regional and local level, where there is a concentration of federal offices and activities to leverage the resources of the federal community. Where appropriate, the Department of Defense and Federal Executive Boards should also play active roles in these working groups, and federal actions should be coordinated with state, local, and tribal communities.

Thank you for participating on the call to support EPA's sustainability efforts. OARM and the Office of Policy are working together on this issue to coordinate the effort for the agency. If you

have any questions, please either contact Joel Scheraga at 202 564-3385 or me at 202 564-4600.

cc: Deputy Regional Administrators
Assistant Regional Administrators
Dan Amon
Vaughn Noga

Karl Brooks
Acting Assistant Administrator
Office of Administration and Resources Management
Immediate Office
202-564-4600
brooks.karl@epa.gov

	U. S. Environmental Protection Agency Office of the Chief Financial Officer Policy Procedure	
	Official Travel	
	Effective Date: 4/17/2015 Supersedes Resource Management Directive System 2550B, Travel Manual 2012	Resource Management Directive System 2550B Official Travel

I. INTRODUCTION

Purpose

General Services Administration publishes the Federal Travel Regulation, the regulation contained in 41 Code of Federal Regulations, Chapters 300 through 304, that implements statutory requirements and Executive branch policies for federal civilian employees and others authorized to travel at federal government expense. The Federal Travel Regulation, as amended, is the *first* source of reference for all federal travel, e.g., travel of employees with special needs, permanent or temporary change of official station. Additionally, the Federal Travel Regulation grants to agencies discretionary authority to establish specific internal policies.

To minimize repetition, this policy does not repeat each travel entitlement that is listed in the Federal Travel Regulation. This policy discusses the guidelines for the Environmental Protection Agency's discretionary allowances.

All EPA employees and travel authorizing officials shall know and comply with the Federal Travel Regulation and the EPA travel policies and procedures. If any differences, except for discretionary allowances, exist between this policy and the Federal Travel Regulation, the Federal Travel Regulation governs. *All travel requests and authorizations require compliance with the Federal Travel Regulation and the EPA guidelines.* Program offices and regions supplement these policies, as necessary, with *additional* administrative procedures and restrictions consistent with the Federal Travel Regulation and the EPA guidelines and responsibilities. The agency, program offices or regions, as appropriate, will notify labor representatives of any additional administrative procedures or restrictions and will bargain to the extent required by law.

Authority

- Federal Travel Regulation Chapters 300-304. (<http://gsa.gov/fttr>)
 - Chapter 300 – General
 - Chapter 301 – Temporary Duty Allowances
 - Chapter 302 – Relocation Allowances
 - Chapter 303 – Payment Connected with Death
 - Chapter 304 – Payment from Non-Federal Source

- Office of Management and Budget guidelines.
(http://www.whitehouse.gov/omb/circulars_default)
- United States Code, Title 5, *Government Organization and Employees* (specifically Chapter 57, which provides allowances for travel, transportation and subsistence).
(<http://uscode.house.gov/download/pls/05C57.txt>)
- The EPA Official Travel.
(<http://intranet.epa.gov/ocfo/policies/resource.htm>)

This policy applies to the EPA employees and other federal employees' travel that the EPA funds and travel under statutes that authorize the EPA to use appropriated funds to directly pay for travel of nonfederal individuals. Additionally, this policy addresses travel that nonfederal sources fund for the EPA employees.

This policy does not apply to travel funded through the EPA contracts or financial assistance agreements. The EPA travel policy does not apply to Commissioned Officers. The Department of Defense issues the Joint Federal Travel Regulations, which governs travel for Commissioned Officers.

II. MANDATORY REVIEW

The next review for this policy is three years. However, review and revision of this policy will occur as new federal regulations or the EPA policy warrants.

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III. DELEGATIONS OF AUTHORITY

The EPA established three delegations of authority related to approval for all travel in its Delegations Manual. The list below shows the applicable delegations of authority.

- Delegation 1-17-A, Domestic Travel. (<http://intranet.epa.gov/hr/rmpolicy/ads.dm/index1.htm>)
- Delegation 1-17-B, International (Foreign and Invitational-Foreign) Travel. (<http://intranet.epa.gov/hr/rmpolicy/ads.dm/index1.htm>)
- Delegation 1-17-C, Domestic and International Travel for the Office of Inspector General. (<http://intranet.epa.gov/hr/rmpolicy/ads.dm/index1.htm>)

The EPA Administrator authorizes specific agency officials to take action under Delegations 1-17-A, 1-17-B or 1-17-C and allows these officials to redelegate their authority to positions or equivalents specified in the redelegation provisions of the original delegations unless restricted or nontransferable as a matter of law. Redlegation requires written documentation and records of the changes maintained in the offices or regions' internal delegation files. A delegation or redelegation of authority does not relieve the original or subsequent delegates of oversight responsibility for the authorities they delegate.

Delegations in the various EPA policies and guidelines other than the EPA Delegations Manual constitute valid delegations as long as the references comply with the authority conferred on program offices or regions in 40 CFR Part 1 and are current and consistent with delegations in the Delegations Manual.

As a matter of agency policy and ethical considerations, employees (officials and staff) must not authorize or approve their own travel. Program offices and regions must designate officials to authorize or approve travel. Additionally, ensure that alternate individuals are designated to authorize or approve travel for travel authorizing officials. In the event that someone other than a designated official approves travel, the responsible office for employees, must inform the Chief Financial Officer within five business days and must provide adequate justification why the designated official did not approve the travel documents.

All travel authorizing officials should designate individuals to act in their capacity during their absences. Such designation requires written authorization unless the officials' absence results from sudden illness or emergency. Email is an acceptable form of authorization provided that travel authorizing officials and the delegated individual maintain a record of the designation either electronically or in paper form. Designation of authority to act in the absence of officials conveys all authority of the officials, unless otherwise stated in the EPA Delegations of Authority. When a principal approver is not available the traveler will follow the Executive Approval Framework available on the intranet: http://intranet.epa.gov/ocfo/finservices/pdfs/executive_approval_framework.pdf

Roles and responsibilities for the travel process help determine the need for travel, alternatives to travel and the most effective routing and means to accomplish official travel. Also, roles and responsibilities ensure compliance with the federal government regulations and the EPA requirements. Various aspects of travel require approval or action from the EPA Administrator, senior officials, organizations, designated officials and individuals.

IV. RESPONSIBILITIES

THE EPA ADMINISTRATOR AND SENIOR OFFICIALS

Administrator

- Designates officials to authorize travel related expenses through the EPA Delegations Manual or otherwise.
- Authorizes, on a case-by-case basis, an exception to the required use of the EPA Travel Management Center or E-Gov Travel Service system. The designee also performs this responsibility.
- Temporarily lifts, when necessary, the requirement for credit worthiness assessments for the application process for a travel card to ensure the safety of American citizens and property when a national emergency or a disaster occurs and disrupts normal travel activities. Credit worthiness assessments will continue when the situation stabilizes, for example, the national emergency ends. The designee also performs this responsibility.

Assistant Administrators, Regional Administrators, General Counsel and Chief Financial Officer may:

- Waive the requirement, for their respective employees, to apply for the federal government travel card based upon extenuating personal circumstances the employees describe. Waivers require documentation and maintenance in the officials' files consistent with the EPA records management policies. For additional information, access <http://www.epa.gov/records/policy/index.htm>. To ensure confidentiality of personal information, refer to the EPA Privacy Act Manual at <http://www.epa.gov/policy/privacy/2190/>.
- Authorize a waiver from the EPA local travel rule, in unique, not routine situations, for their respective employees when it is necessary to allow per diem within 50 miles of the official station to conduct official business. Send, for approval, all after-the-fact or post-travel requests for local travel waivers to the Director, Office of Financial Management in the Office of the Chief Financial Officer.
- Grant a waiver from the EPA local travel rule to allow per diem within 50 miles of the official station for on-scene coordinators or other employees working at remedial or removal sites, and grant a waiver for investigators, inspectors, auditors and legal personnel assigned to perform official duties outside of the EPA facilities. Send, for approval, all after-the fact or post-travel requests for local travel waivers to the Director, Office of Financial Management in the Office of the Chief Financial Officer.

Deputy Chief of Staff in the Office of the Administrator

Authorizes waivers from the EPA local travel rule, in unique situations, for his or her employees, when it is necessary to allow lodging and per diem within 50 miles of the official station to conduct official business. Sends, for approval, all after-the-fact or post-travel requests for local travel waivers to the Director, Office of Financial Management in the Office of the Chief Financial Officer.

ORGANIZATIONS

Office of the Chief Financial Officer

- Manages the EPA travel program to ensure that the program complies with the federal government regulations and the EPA policy.
- Monitors travel program effectiveness.

Office of Budget

- Manages and maintains the EPA budget data.
- Advises program offices and regions of any travel restrictions or limitations due to budgetary restraints.
- Provides and monitors travel ceiling amounts. Determines, on a case-by-case basis, when to approve requests for increases for program offices or regions.

Office of Financial Management

- Issues policies and procedures for official EPA travel, including procedures regarding travel cards.
- Provides guidance to program offices and regions.

Office of Financial Services, Cincinnati Finance Center

- Manages the EPA E-Gov Travel Service system.
- Maintains the EPA E-Gov Travel Service system Help Desk and responds to employees within 24 hours of receiving a request for assistance.
- Manages the E-Gov Travel Service system Federal Agency Travel Administrator functions on behalf of a program office or region if that office or region transfers its responsibility to the Cincinnati Finance Center. This responsibility includes maintaining organizations, routing lists, account signatures, groups, names of employees, lines of accounting and the centrally billed account. *The Cincinnati Finance Center will not accept routing changes from employees.*
- Appropriate designated officials for employees must provide updates, e.g., changes in positions,

approvers for new employees, new approver for current employees and removal of an approver no longer with the office or no longer employees. The updates require a memorandum in email to the Cincinnati Finance Center. All correspondence must be retained as documentation. In coordination with the Cincinnati Finance Center, program offices and regions should supplement these guidelines, as needed, to comply with internal controls and separation of duties.

- Enters or maintains electronic funds transfer information in the EPA's accounting system for the EPA and invitational travelers.
- Assists with the E-Gov Travel Service system training when requested.
- Serves as the EPA travel payment office.
- Pays proper travel claims, e.g., allowable expenses with required receipts, within 30 calendar days of receipt of travel vouchers.
- Notifies employees, within 7 business days after employees submit travel claims, of any error that prevents payment within 30 calendar days after submission. Explains, when a claim is denied, why the claim is not proper.
- Transfers Superfund related travel documents and receipts from the E-Gov Travel Service system to the Superfund Cost Recovery Package Imaging and Online System.
- Coordinates use of the EPA centrally billed account that pays travel expenses for nonfederal individuals traveling at the EPA's invitation and for federal employees who do not have a travel card.
- Maintains a log of travel vouchers paid pursuant to a waiver, e.g., 50 mile local travel rule.
- Performs verifications and internal reviews, as needed, to ensure that the EPA pays only valid travel expenses.
- Processes and reviews completed travel vouchers. Liquidates any advance accounts or collects any refunds the employees owe.¹
- Ensures random audits for travel vouchers less than \$2,500. Audits all travel vouchers that exceed \$2,500, excluding the cost of the airfare and all travel vouchers prepared for Presidential appointees and employees at the Assistant or Regional Administrator level or higher.²
- Annually issues to applicable employees the *Income Tax Withholding Record for Taxable Temporary Duty Travel*.

¹ Key Internal Control

² Key Internal Control

- Coordinates the EPA's financial management activities related to accounts receivables for travel, including nonfederal or outside source travel and salary offset. Issues bills to outside sources for reimbursement of travel expenses that the EPA employees incurred as approved from the Office of General Counsel pursuant to 31 U.S.C. 1353. Reimburses individual office's travel account after receipt of outside source payment.
- Manages the EPA travel card program.
- Advises Agency Program Coordinators, employees and supervisors of available travel card training and new regulations or requirements governing travel when requested or as appropriate.
- Obtains and maintains certification from all program participants (travel cardholders) who received initial or refresher travel card training. Understands and interprets regulations and procedures and knows the consequences of inappropriate actions or misuse of the travel card. Maintains master file or official cardholder records, including training, usage limits and related records. Maintains certifications consistent with the EPA records management policies. (<http://www.epa.gov/records/policy/schedule/number.htm>).
- Consolidates the Agency Program Coordinator quarterly reports of travel card misuse or abuse, delinquency and disciplinary action taken in conjunction with travel card infractions.
- Reviews available data, including the use of data mining if available, on a quarterly basis to detect delinquency, fraud and misuse and to identify trends and observations relevant indicators of travel card performance. Conducts more frequent reviews at management's request or at the Agency Program Coordinator's discretion.
- Run and review quarterly reports for frequent travelers to the same location, and submit irregularities to the Financial Policy & Planning Staff for further review.

Office of General Counsel, Office of Regional Counsel

- Through Headquarters office and regional counsels, interprets all travel related laws and regulations and advises employees on legal issues concerning travel, including but not limited to the Ethics in Government Act, 31 U.S.C. 1353 and the Foreign Gifts and Decorations Act, 5 U.S.C. 7342.
- Reviews and approves in advance any request for acceptance of nonfederal or outside source payment of travel expenses for the EPA employees.

Office of Human Resources

- Develops and communicates to all travel cardholders the human resources policies and disciplinary procedures for the EPA. Travel card delinquency and misuse are examples of misuse of position and serious employees' misconduct.
- Coordinates with the Office of General Counsel to provide recommendations to employees' management the appropriate disciplinary action, e.g., written reprimand, suspension or removal

from federal government service, for employees misuse or delinquency related to the travel card. The EPA *Conduct and Discipline Manual* is the basis for any recommendation. Find this manual on the EPA Intranet at <http://intranet.epa.gov/policy/conductdiscipline.htm>. The EPA management will assess penalties depending on the circumstances consistent with due process procedures.

- Determines staffing positions and assists program offices and regions with selection of eligible candidates for relocation and benefits.

Office of International and Tribal Affairs

- Determines whether international travel is in the best interest of the EPA and the federal government's goals and priorities. This office makes a determination after consultation with the Department of State and after considering the nature, duration and location of the travel and the completion of all procedural requirements. In addition, this office considers its knowledge of the socio-economic political situation in the host country and uses Department of State advisories and U.S. embassy clearances as mechanisms to provide current information and decisions. The Office of International and Tribal Affairs is the final authority in the EPA for making this determination, with the exception of travel for employees in the Office of Inspector General. The final authority for employees in the Office of Inspector General lies with the Inspector General.
- Advises the Office of the Administrator when a situation in a host country changes or there is a potential international security concern and upcoming travel requires cancellation or postponement. Determines if employees already abroad should remain or return to the United States. In most cases, makes decisions in concert with the Assistant or Regional Administrator involved, after consultation with the appropriate embassy and the Department of State.
- Coordinates official international travel with the Department of State Headquarters and American embassies before the EPA employees travel outside the United States. Coordination includes requesting and obtaining visas, official passports and any addition required clearance applications.
- Refers employees to the EPA health unit or the Department of State health unit for required inoculations to travel abroad. If the health unit does not provide assistance, the EPA recommends that employees seek immunizations from their physicians.
- Must receive all international travel requests, in an electronic International Trip Plan in the Fast International Approval of Travel database, at least 21 calendar days before departure or earlier if possible. If the travel includes payment of expenses from a nonfederal source, must ensure that the Office of General Counsel Ethics official approves the acceptance in advance. The intranet site is <http://intranet.epa.gov/OIA/international-travel/fiat.html>.
- Determines, on a case-by-case basis, whether to approve a travel request received fewer than 21 days prior to the scheduled date of departure. The Department of State emphasizes that the country clearance process is an integral part of the authority and responsibility of all chiefs of missions overseas or the desk officer at the Department of State. Travel is not officially approved until both the international trip plan and travel authorization documents are signed.

DESIGNATED OFFICIALS

Agency Program Coordinators

- Serve as the EPA primary liaison with the travel card contractor bank. The Agency Program Coordinator resides in a program office or a region, or the Cincinnati Finance Center performs these functions when transferred or delegated.
- Receive, prior to appointment as Agency Program Coordinators, the GSA's Agency Program Coordinator online training (<http://www.gsa.govportal/content/101601>) on roles and responsibilities, to include proper management, control and oversight tools and techniques, and the Federal Travel Regulation. Agency Program Coordinators also receive the same training and refresher training as travel cardholders.
- Maintain open lines of communication with travel cardholders, supervisors and managers to ensure that all participants know the regulations and policies governing the EPA travel card program. Ensure that cardholders comply with the provisions and intent of the EPA travel card program policies. Inform cardholders, supervisors and managers on the proper use of the travel card.
- Manage and monitor the EPA travel card program. Identifies potential misuse of travel card and follows up on delinquent accounts.
- Review and maintains account information contained in the EPA or contractor online systems. Coordinates with the Office of Human Resources, Labor and Employee Relations and the travel card contractor bank to resolve disputes and issues delinquency notices.
- Coordinate the credit worthiness assessment process for current travel cardholders who transfer to the EPA from another federal agency.
- Complete and send (scan or fax) employees' applications (and signed employees' agreements) to the travel card contractor bank and file the signed the EPA memorandum of understanding in a secured location. Maintain the EPA memorandum of understanding consistent with records management schedules at <http://www.epa.gov/records/policy/schedule/number.htm>.
- Respond to any questions from employees concerning travel card policies and procedures.
- Assign proper authorization controls, such as, credit limit, transaction volume or individual transaction limit, to a travel card based on the credit assessment from the contractor bank or management's determination.

- Perform verifications and reviews, at least twice annually, to monitor cardholder statements and supporting documentation for delinquency, misuse and other improper transaction activities.³
- Review automated teller machine cash withdrawals, at least twice annually, to determine whether amounts withdrawn were consistent with authorized travel expense levels and for items or services associated with official travel.⁴
- Review monthly activity reports reflecting employees' accounts and travel advance transactions to verify that transactions are legal, proper and consistent with Federal rules and regulations. Take corrective action, for example, remove travel advance option. At a minimum, perform a monthly statistical sampling of accounts.⁵
- Provide the Cincinnati Finance Center with a quarterly report of travel card misuse or abuse, delinquency and disciplinary action taken in conjunction with travel card infractions.
- Subject to local bargaining union agreement, report suspected travel card abuse and delinquencies to employees' approving officials, typically employees' supervisors. Report suspected fraud to the EPA Office of Inspector General.

Director, Office of Financial Management may:

- Authorize a waiver from the EPA local travel rule, in unique situations, for the Office of the Chief Financial Officer employees, when necessary to allow lodging and per diem within the 50 mile local travel area of the official station to conduct official business.
- Approve, for agency employees, lodging and per diem within 50 miles of the official station *after* they incur travel expenses, *retroactive or after-the-fact travel*. The Inspector General or designee approves for his or her employees.

Funding Officials (Funds Control Officers)

- Verify availability of funds and proper authorizations on the travel request.
- Enter, maintain and verify account code information, e.g., document control prefix number, in the EPA E-Gov Travel Service system and fund travel authorizations upon receipt of the documents.
- Stamp "approved" on travel authorizations processed in the E-Gov Travel Service system or return authorizations not approved with appropriate comments related to availability or appropriate use of funding.⁶

³ Key Internal Control

⁴ Key Internal Control

⁵ Key Internal Control

⁶ Key Internal Control

- Perform a review of the accounting information on local travel vouchers and stamps them “certified” or return them with appropriate comments.⁷
- Deobligate any remaining unliquidated obligations on travel authorizations and travel vouchers in the financial system when it has been determined that employees have cancelled their planned trips or have been fully reimbursed for their travel expenses.

Program or Regional Office Travel Coordinators

- Ensure compliance with the federal government regulations and the EPA requirements. Monitor the travel program.
- Provide travel guidance, e.g., travel authorization and travel voucher creation and approval, to employees in their offices, including guidance on the Federal Travel Regulation, the EPA travel policy or regional administrative policies and procedures.
- Serve as the liaison to the Cincinnati Finance Center on travel related matters.
- Maintain current routing lists with names of employees. Send official requests to the Cincinnati Finance Center to revise the lists used in the EPA E-Gov Travel Service system.
- Request routing changes from appropriate travel authorizing officials. Ensure that all correspondence, memorandum or email, is retained as documentation in the responsible office.
- Perform or facilitate user training on the E-Gov Travel Service system.
- Assist employees with interpretation of the Federal Travel Regulation rules and the EPA travel policy.
- Assist employees or travel preparers in the use of the E-Gov Travel Service system.
- Provide cross-funding accounting when more than one EPA office pays for travel.
- Regions only, manage the E-Gov Travel Service system Federal Agency Travel Administrator functions. When requested, the Cincinnati Finance Center manages these functions on behalf of program offices or regions. This includes routine maintenance of organizational and routing lists, account signatures, groups and employees’ records and lines of accounting. Do not delete employees’ records when employees leave the EPA to ensure appropriate record retention. The schedules for records are available at <http://www.epa.gov/records/policy/schedule/number.htm>

Senior Resource Officials

Receive notification from the Cincinnati Finance Center when employees do not respond to travel audit-related inquiries and forwards the notification to employees’ supervisors for immediate action.

⁷ Key Internal Control

Travel Authorizing Officials

- Review, authorize and electronically route travel authorizations for employees to travel on behalf of the EPA, except for other than coach-class accommodations, which is first-class or business-class.⁸ First-class and business-class accommodations require prior approval from delegated officials authorized in Delegations 1-17-A, 1-17-B and 17-C. This process includes an evaluation of the trip itinerary dates and times based on mission needs and what is most advantageous to the federal government.
- Review travel vouchers, based on knowledge of employees' activities, to ensure that:
 - Travel vouchers are properly prepared consistent with applicable federal government regulations, the EPA policy and procedures and ethical laws and regulations.
 - Expenses claimed are proper (authorized and allowable expenses).
 - Amounts claimed are reasonable.
 - Required receipts, statements, justifications and approvals are scanned and uploaded in the E-Gov Travel Service system.
 - Original Superfund, OIL Spill or Leaking Underground Storage Tank related travel documents and receipts are sent to the Cincinnati Finance Center.
- Authorize use of a federal government vehicle, privately owned vehicle, commercially rented vehicle or other special conveyance when advantageous to the federal government and consistent with ethics requirements.
- Review requests for exceptions to travel regulations, standards, procedures or interpretations and forward such requests to the appropriate offices, if deemed prudent.
- Review, authorize and route within five business days, after receiving the EPA E-Gov Travel Service system notification, travel vouchers to the Cincinnati Finance Center for payment certification.⁹
- Assist employees with access to relocation regulations and any other regulations about travel.
- Have proper authority to determine allowable travel for change of official station expenses. Must exercise care in planning relocation to ensure efficient use of time and money. Authorize only expenses that are absolutely essential to accomplish the objectives of the EPA programs or missions for change of official station that are in the best interest of the federal government. Determine the purpose and necessity of a relocation assignment, the means of transportation and discretionary reimbursements, where applicable.
- Sign appropriate documents to certify the review of the relocation package and to confirm that relocation is essential to accomplish the objectives of the EPA in an efficient and effective manner.

⁸ Key Internal Control

⁹ Key Internal Control

- Inform employees of their transfer within a timeframe that provides sufficient time for employees to prepare for relocation.
- Assist, when necessary, new employees with the applicable limitations of travel relocation benefits.
- Ensure that employees have access to the EPA Federal Employee Relocation Center for correct information prior to their change of official station moves.
- Issue requests to the EPA Federal Employee Relocation Center to create travel authorizations for relocation *before* employees transfer to the new official station.
- Complete the same training and refresher training as travel cardholders, even if approving officials are not travel cardholders.
- Document misuse, abuse and delinquencies. Advise management officials of problems. In appropriate cases, e.g., fraudulent claims, advise the Office of Inspector General.
- Initiate administrative or disciplinary actions in the event travel cardholders fail to meet their responsibility with respect to appropriate use and timely payment of travel card billings, which the travel card contractor bank establishes. Initiate appropriate action for each occurrence of travel card misuse consistent with the EPA Order 3120.1, *Conduct and Discipline* and when applicable, collective bargaining agreement.

INDIVIDUALS

Employees

- Know and comply with the Federal Travel Regulation and the EPA policies for travel and relocation, when applicable to ensure proper claim for reimbursement of authorized travel or relocation expenses and to comply with applicable ethics requirements. The Federal Travel Regulation is available at <http://www.gsa.gov/fttr>. The EPA Resource Management Directive System 2550B, Official Travel is available at <http://intranet.epa.gov/ocfo/policies/resource.htm>.
- Exercise the same care in incurring travel and relocation expenses for the federal government as individuals use when traveling on personal business. Official business is never secondary to personal pleasure trips.
- For travel card users, successfully complete GSA travel card training prior to use of the travel card, and successfully complete the travel card refresher training every three years.
- *Should not* incur travel related expenses until travel authorizing officials approve the travel authorization and a document control number is available.
- If travel involves payment from a nonfederal or outside source, *should not* travel or otherwise incur travel related expenses until the Office of General Counsel Ethics official approves the gift of travel.
- Prepare their travel authorizations and travel vouchers. When employees request assistance, travel preparers perform some or all of these functions. However, employees remain responsible for the accuracy of statements and claims on their travel authorizations and travel vouchers.
- *Do not approve* their own travel authorization, their own travel voucher or their own travel

related justification documents.

- Track and monitor payment of their travel voucher and follow up with the Cincinnati Finance Center if they do not receive payment within seven business days after travel authorizing officials or designees' submission of the employees' travel vouchers to the Cincinnati Finance Center.
- Maintain travel preferences or personal profiles in the EPA E-Gov Travel Service system. Contact the Cincinnati Finance Center to request changes in address or banking information.
- Prepare, update and digitally sign travel documents in the EPA E-Gov Travel Service system using personal identification and password.
- Ensure that travel documents are routed and approved, and appropriate confirmations are received to allow timely processing of tickets.
- Retain required receipts and prepare travel vouchers within five business days of concluding a trip.¹⁰ Required receipts under Federal Travel Regulation 301-11.25 include only lodging receipts and receipts for authorized expenses over \$75. The GSA has advised that it is permissible for the EPA to have a more stringent policy on providing receipts than that contained in Federal Travel Regulation 301-11.25. The EPA has deemed it necessary for a more stringent policy. For a list of the EPA's required receipts, see *Section V. Prudent Travel Management, Administrative Guidelines, Receipts*. Note: if employees have bargaining unit status, guidelines for receipt retention follow the appropriate agreement established.
- Scan or fax *all* required receipts for travel expenses claimed into the E-Gov Travel Service system as attachments to travel vouchers, including those for Non-Site Specific Superfund, Oil or Leaking Underground Storage Tank related travel. Ensure that scanned documents and receipts are readable. If employees cannot scan or fax travel receipts and documents, they should contact the Cincinnati Finance Center Help Desk for assistance before mailing any documents. The telephone number is (513) 487-2346.
- Mail the original of Site Specific Superfund, Oil Spill or Leaking Underground Storage Tank related travel documents and receipts to the Cincinnati Finance Center. Retain, according to the proper retention period, a copy of all documents mailed to the Cincinnati Finance Center.
- Respond to requests from the Cincinnati Finance Center and provide complete information within timeframes the Cincinnati Finance Center establishes.
- Ensure cancellation, in the EPA's E-Gov Travel Service system, of all travel documents, e.g., travel authorization and travel related reservations, for trips that are postponed or cancelled. If assistance is required, contact the Cincinnati Finance Center Help Desk at (513) 487-2346.
- Do not travel abroad without permission from the Department of State. Employees should provide completed international trip plans to the Office of International and Tribal Affairs as early as possible, but, no later than 21 calendar days prior to departure. This timeframe allows the Department of State sufficient time to review and process a country clearance cable.
- Advise the Office of International and Tribal Affairs, through the program office or regional office's international travel coordinator, upon notification of an upcoming international trip, of

¹⁰ Key Internal Control

planned travel and the need for an official passport. Visa requirements vary from country to country and are subject to frequent change. Employees should contact the Office of International Tribal Affairs at least 30 days in advance of travel or earlier, due to the length of time many countries require to issue a visa.

- Review country security profile information for foreign travel. Access information at <http://www.state.gov/travel>.

Travel Preparers

At the request of travel authorizing officials or employees, travel preparers:

- Assist in preparing travel related documents, including travel for invitational travelers (non-EPA employees).
- Assist with cancellation of travel documents in the E-Gov Travel Service system and travel related reservations at the request of employees or supervisors.
- Assist with submission of required documentation, e.g., required receipts, justifications, audited or unaudited vouchers, into the EPA E-Gov Travel Service system.
- Ensure that all scanned documents and receipts are readable in the EPA E-Gov Travel Service system.

The EPA employees perform official travel consistent with applicable laws and in the most expeditious and economical means of transportation practicable to accomplish employees' duties. The EPA policy limits travel when the number of the EPA participants is disproportionate to the interest of the EPA or to its role in the meeting or other activity.

When official travel requires cancellation, employees or travel preparers must cancel transactions in the EPA E-Gov Travel Service system and all travel related reservations for the cancelled trip. Program offices and regions must ensure deobligation of appropriate travel funds for cancelled trips.

Additionally, employees or travel preparers must ensure that all required receipts for travel expenses claimed are scanned into the EPA E-Gov Travel Service system. Required receipts under Federal Travel Regulation 301-11.25 include only lodging receipts and receipts for authorized expenses over \$75. The GSA has advised that it is permissible for the EPA to have a more stringent policy on providing receipts than that contained in Federal Travel Regulation 301-11.25. The EPA has deemed it necessary for a more stringent policy. The EPA's required receipts are listed under *Administrative Guidelines, Receipts*.

Authorized officials shall approve travel only after consideration of budget constraints, adherence to travel policies and applicable laws and reasonableness of costs. Alternatives to travel, such as teleconferencing and webinars, require consideration prior to requesting or authorizing travel. Officials who direct travel and authorize payments for reimbursement of travel expenses must exercise care in planning travel to ensure efficient use of time and money.

Authorized officials must ensure that travel is by the direct or usually traveled route to the temporary duty location. Use of indirect routes requires justification and approval. Employees are responsible for additional costs when indirect routes are for personal convenience.

Failure to follow federal government and the EPA travel regulations and policies causes delayed reimbursement, improper reimbursement or no reimbursement at all. Violations of travel regulations, including misuse of the travel card, could result in civil or monetary penalties and discipline up to and including dismissal from federal service.

For information regarding conduct and disciplinary matters, see the Office of Human Resources Intranet site at <http://intranet.epa.gov/policy/conductdiscipline.htm>. The Intranet site includes the EPA Order 3120.1, *Conduct and Discipline*, which contains the agency's policies and procedures dealing with these matters.

V. PRUDENT TRAVEL MANAGEMENT

ADMINISTRATIVE GUIDELINES

Authorization for Official Travel

Employees or travel preparers must initiate a travel authorization for domestic and international, foreign and invitational foreign, travel as soon as employees have knowledge of an upcoming trip to support the agency's mission. The travel authorization is the tool the EPA uses to authorize official travel, provide funding or obligation for entitlements and record discretionary allowances.

All travel requires approval from proper travel authorizing officials or designees, prior to employees conducting official travel or incurring any costs associated with travel. Oral authorization of travel should only occur in emergencies or other legitimate circumstances when employees receive short notices, which do not allow for proper authorization in the EPA E-Gov Travel Service system to accomplish the EPA's mission. When oral authorization is given, travel authorizing officials or designees should follow up with a travel authorization, include a statement that travel is "post-approved" and explain why approval prior to travel was not possible. Oral authorization is acceptable for local travel that does not require a travel authorization, e.g., rental car or a waiver for per diem allowance.

Amendments to the EPA E-Gov Travel Service system travel authorization are necessary when the travel period is extended for one day or more; the itinerary is changed; total cost is increased by \$500 or more; or other changes are made, which require special authorization. The reason for the change should be identified under itinerary, including an itemization of the increased cost. The amended travel authorization must be signed by travel authorizing officials delegated the authority to approve or direct travel.

To ensure prudent travel management for alternatives to travel, the EPA employees will use trip-by-trip authorization for official business. Trip-by-trip authorization allows employees to take one or more specific official business trips, which must include specific purpose, itinerary and estimated costs.

When necessary, only the Administrator and Deputy Administrator may use unlimited open and limited open authorizations. The unlimited open authorization allows travel for any official purpose without further authorization. Use of this type of authorization should only occur on an exception basis and then only when absolutely essential. When there is a need for the Administrator or Deputy Administrator to

use unlimited open authorization, a separate justification is required for each trip and documentation (purpose) must be maintained on file for each trip taken.

The limited open authorization allows travel on official business without further authorization under certain specific conditions, travel to specific geographic areas for specific purposes, subject to trip cost ceilings or for specific periods of time. General terms, such as “to conduct official business” are not acceptable for a limited open authorization. When there is a need for the Administrator and Deputy Administrator to use a limited open authorization, this type of authorization must not cover more than one fiscal year.

Retroactive or after-the-fact travel authorization requires approval from travel authorizing officials delegated the authority to approve or direct travel prior to the trip. The EPA Appendix A, *General Information* contains additional information on travel authorization.

Contractor and Assistance Agreement Travel

The EPA does not issue travel authorizations to individuals of agency contractors or financial assistance recipients. This includes enrollees participating in the Senior Environmental Employee grant programs and fellows or interns conducting research or receiving training in the EPA facilities. Contractors and financial assistance recipients must not use the EPA E-Gov Travel Service system to arrange travel. These individuals must arrange their travel and cover all costs associated with travel.

The EPA only reimburses contractors and financial assistance recipients for travel related costs to the extent their agreement, contract or assistance, with the EPA authorizes reimbursement. The agreement, contract or assistance, governs travel reimbursement not the EPA travel policy.

Enrollees, participating in the Senior Environmental Employee grant programs and fellows or interns conducting research or receiving training in the EPA facilities under financial assistance agreements, travel with funds provided by their assistance agreements rather than as federal employees or, with limited exceptions, as recipients of invitational travel orders. Contractors and financial assistance recipients must not use the E-Gov Travel Service system to arrange travel. These individuals must arrange their travel and cover all costs associated with travel.

Individuals employed under the Office of Research and Development Student Services Contracting authority are the exception to the EPA policy concerning contractors, financial assistance recipient employees or program participants. By statute, Chapter 57 of Title 5 U.S.C., Student Services Contractors are federal employees for the purposes of travel, provided they are performing tasks described in their scope of work.

Exceptions to the Federal Travel Regulation and the EPA Policies

The EPA employees, invitational travelers and authorizing officials must comply with the Federal Travel Regulation and the EPA policies and procedures. A designated official considers a waiver to the EPA policies and procedures when there are:

- Unique, not routine, circumstances to accomplish the agency’s mission.
- Substantial cost savings to the agency.

For consideration of a waiver to the EPA travel policy, the Office Director or equivalent manager submits a written request to the appropriate Assistant Administrator or Deputy Assistant Administrator, Regional Administrator or Deputy Regional Administrator, General Counsel or the Chief Financial Officer according to delegated authority. See Delegations 1-17-A, 1-17-B and 1-17-C for specific authorities.

Any waiver granted for a temporary duty assignment requires attachment of the waiver to the travel authorization in the EPA E-Gov Travel Service system. Any retroactive or after-the-fact request requires approval from employees' travel authorizing officials delegated the authority to approve or direct travel prior to the trip.

Any retroactive or after-the-fact instances of nonfederal or outside source payment of the EPA employees' expenses must be reported to the Office of General Counsel Ethics official or the relevant Office of Regional Counsel immediately upon discovery for a determination regarding the propriety of accepting the gift of travel.

Excess Baggage

The EPA allows reimbursement for two personal bags for official travel. Specific notation is required on the travel authorization for the number of personal bags to be checked and associated baggage allowance. For associated baggage allowance, travel authorizing officials are responsible for determining the length and purpose of assignments, and the number of bags necessary for official documents or equipment. Federal Travel Regulation 301-12.2 provides a list of reimbursable expenses related to baggage.

Internal Control

The EPA follows the requirements contained in the Federal Managers' Financial Integrity Act and Office of Management and Budget Circular A-123, *Management's Responsibility for Internal Control*. Access the EPA internal control guidance at http://intranet.epa.gov/fmdvally/management_integrity/.

Leave in Conjunction with Travel

Delegated officials or designees may approve leave in conjunction with official domestic and international temporary duty, if the federal government will not incur any additional costs. Key considerations in approving such travel include verifying that:

- Official travel is essential.
- The purpose of the travel is stated on the travel authorization as the sole reason for the trip at the federal government's expense.
- Any requested leave is purely incidental.
- Any leave taken will not delay any official business.

- Employees do not receive per diem while allowances while in leave status.

Employees on annual leave, traveling at personal expense, should not officially represent the EPA or use official passports. However, employees traveling at personal expense on unofficial business that is professionally related, which may indirectly benefit the EPA, may be provided administrative leave. Employees must complete Standard Form 71 *Request for Leave*, available under WebForms on the EPA Intranet. Additionally, the EPA official time and attendance system must reflect leave activity during travel status. For international travel, ensure that leave dates are on the international trip plan.

Payment of per diem or actual expenses is not allowed when employees are in leave status for more than one-half of the regular work day. Also, there is no payment of per diem or actual expenses when employees are in leave status for more than one-half of the regular work day immediately before or after non-work days, such as weekends or legal federal government holidays.

When official travel status includes non-work days, generally, employees may be reimbursed per diem or actual expenses. Travel authorizing officials should determine whether a required stay at the temporary duty location during non-work days is more cost effective than a return to the official station during non-work days.

Employees may use sick leave when they interrupt their temporary duty assignments because of an incapacitating illness or injury that occurs suddenly for reasons other than employees own misconduct and renders employees incapable of continuing, either temporarily or permanently, the travel assignment. Employees shall be allowed a per diem allowance not to exceed the maximum rate for the location where the interruption occurs. Such per diem may be continued for a reasonable period, normally not to exceed 14 calendar days, including fractional days, for any one period of absence. However, delegated officials or designees may approve a longer period, if justified.

Additionally, delegated officials or designees may allow transportation and per diem expenses for employees to travel to an alternate location to receive medical treatment; transportation and per diem expenses for employees to return to their official stations and transportation costs of a medically necessary attendant.

Under Federal Travel Regulation 301-30.4 and 301-30.5, employees will not receive reimbursement for expenses when (1) confined to a medical facility within the proximity of their official stations or the same medical facility employees would have been admitted if their incapacitating illnesses or injuries occurred at their official stations or (2) the federal government provides or reimburses employees for hospitalization under any Federal statute including hospitalization in a Department of Veterans Affairs Medical center or military hospital. Per diem expenses are payable if employees' hospitalization is paid under the Federal Employees Health Benefits Program (5 U.S.C. 8901-8913).

Leave Interruption for Return to Official Station

Employees who are on leave from their official station and are required to return to duty to perform official business receive reimbursement for the cost of returning to their official station and the cost of returning to leave after the official business is complete. Employees' prior knowledge of the need to return to the official station does not preclude the EPA from reimbursing employees.

The EPA is not authorized to reimburse employees for any personal losses sustained, such as the guaranteed cost of a hotel room while on vacation or fees for cancelled airline, train or ship reservations. Employees on leave at their official station do not receive reimbursement for local transportation costs.

**Payment of Travel Expenses from Non-Federal or Outside Sources
Obtain Prior Approval from the Office of General Counsel**

Pursuant to ethics requirements, employees must not solicit travel expenses from outside sources. Employees must seek approval from the Office of General Counsel Ethics official *prior to* accepting any invitation to conduct official agency business that an outside source, other than the federal government, pays. *The Office of General Counsel will not accept the "gift of travel" from any nonfederal source if the funds originate from any federal agency's contract or financial assistance agreements.*

Form 2610-3, *Approval to Accept Travel Under the Ethics Reform Act of 1989* and other information about the Office of General Counsel Ethics are available at <http://intranet.epa.gov/ogc/ethics/travel.htm>. Additionally, other information about the nonfederal or outside source payment process is available at <http://intranet.epa.gov/ocfo/finservices/travel.htm>

Personal Funds for Official Travel

Employees on official federal travel may not waive the right to reimbursement for official travel expenses under any circumstances, even if employees and supervisors agree that employees will not receive reimbursement from the EPA. Under 5 U.S.C. 5702 and 5 U.S.C. 5724(a) the agency must pay travel expenses for official travel. However, when travel is training related as authorized in the Government Employees Training Act, employees have the option to pay all or part of the necessary expenses of a training assignment, including travel expenses provided for in the Federal Travel Regulation, as the appropriate EPA training and travel authorizing officials decide.

Receipts

Agency policy requires the EPA employees to scan or fax into the EPA E-Gov Travel Service system receipts for:

- Lodging or hotel, regardless of the amount.
- Common carrier, e.g., air, rail or bus transportation, regardless of the amount.
- Rental car, regardless of the amount.
- Registration fees, regardless of the amount.
- Any other expense over \$75.

If employees cannot scan or fax travel receipts and documents, they should contact the Cincinnati Finance Center Help Desk for assistance before mailing any documents. The telephone number is (513) 487-2346.

Alternatively, employees must provide a reason acceptable to appropriate travel authorizing officials why the necessary receipts are unavailable. Employees' original travel receipts should be maintained at the appropriate work location. If the Cincinnati Finance Center requires the originals, employees should make and retain copies of the originals mailed to the Cincinnati Finance Center. The GSA has advised that it is permissible for the EPA to have a more stringent policy on providing receipts than that contained in Federal Travel Regulation 301-11.25. The EPA has deemed it necessary for a more stringent policy.

Receipt Retention

Original receipts and documents for travel expenses require retention consistent with the Federal Travel Regulation, National Archives and Records Administration and the EPA policy. Original receipts that **are not** scanned into the EPA E-Gov Travel Service system must be retained for six years and three months. Electronic and scanned receipts – travel documents that have been uploaded into the EPA E-Gov Travel Services system – must be retained for 2 years. Additional information is available at <http://www.archives.gov/about/records-schedule/chapter-07.html>. Note: If employees have bargaining unit status, guidelines for retention of receipts follow the appropriate agreement established.

Reports to Oversight Agencies

Federal Travel Regulation Part 300-70, Subpart B requires reports on the use of all *other than coach-class*, first-class or business-class, accommodations that exceed the coach-class fare.

The Cincinnati Finance Center will request from the EPA's E-Gov Travel Service system provider an automated fiscal year or annual report on the use of first-class and business-class accommodations for the applicable fiscal year. The Cincinnati Finance Center will forward the report to the Financial Policy and Planning Staff in the Office of the Chief Financial Officer for review and submission to the GSA.

Submission of Travel Related Documents

Employees must scan or fax into the E-Gov Travel Service system all documents used to justify claims for reimbursement, in addition to specific required receipts, such as lodging and common carrier expenses. Examples of travel related documents:

- A memorandum of approval for a travel waiver or exemption.
- A copy of the travel cost comparison worksheet.
- Approved justification for purchase of supplies.

Supplies

Employees may purchase supplies and replacement parts for equipment that has malfunctioned, e.g. chargers for blackberries or laptop computers, so long as these supplies are necessary to perform official business while in travel status. If possible, employees should contact their authorized purchase bankcard holder to purchase supplies and replacement equipment to conserve travel funds. In situations in which it

is impractical to purchase the item(s) through the purchase bankcard, employees may purchase the item(s) with their travel card and claim the costs on their travel vouchers.

Employees must provide a justification, which shows that employees' supervisors or travel authorizing officials approved the purchase(s) prior to the travel or at least prior to the unanticipated purchase. If the amount of an unanticipated purchase exceeds \$500, employees' travel authorizing officials must approve an amended travel authorization, which lists the item(s). Travel authorizing officials must not approve reimbursement for personal items such as clothing and umbrellas or "extra" equipment when employees fail to bring an item on travel.

Telephone Calls

Reimbursement for telephone calls is a discretionary allowance for the EPA. Travel authorizing officials determine whether telephone calls are reimbursable as a miscellaneous travel expense if employees incur an actual expense for official business calls, e.g., employees make calls to individuals at the employees' permanent duty station about mission requirements. Federal Travel Regulation 301-12.1, Miscellaneous Expenses includes an allowance for official business calls. Employees should use federal government provided services for all official communication. When these services are not available, commercial services may be used.

The EPA may reimburse employees for calls to home or to immediate family, as permissible, to express employees' safe arrival, inquire about medical conditions of a family member or provide changes to itinerary. Travel authorizing officials should limit the reimbursement for calls to home or immediate family to a daily amount, *up to* \$6.00 for domestic travel or *up to* \$12.00 for international travel. For example, if the amount for the call is \$2.50 domestic or \$7.50 international, the reimbursement is the actual amount, \$2.50 or \$7.50, *not the daily maximum \$6.00 or \$12.00*.

Travel authorizing officials and employees should discuss the reimbursable amount prior to the trip. If the expense is allowed, include a statement for reimbursement of telephone calls on the travel authorization. Travel authorizing officials determine after-the-fact or post-travel approval for telephone charges after completion of travel, when appropriate.

Additionally, any reimbursement requires that employees are on official travel and incur at least one night's lodging. Employees should use federal government provided services for official communications, when available.

When employees use personal cellular phones for official communication, employees must provide documentation to show that the additional cost exceeded the normal usage covered in the personal cellular phone contract. If no additional costs are shown on the cellular phone statement, no reimbursement is allowed. Prepaid communication services, e.g., prepaid phone cards, cellular phones or in-flight communication services are not reimbursable, unless employees provide documentation to travel authorizing officials that supports the claim that calls were used for official business.

Use of government-issued cellular phones, basic cellular phone or BlackBerry devices, is permissible for personal use while on official travel. Employees should use government-issued cellular phones in a manner that minimizes usage costs. Employees' use of government-issued cellular phones during official travel will prohibit claims for telephone calls on the travel voucher.

Text Messaging

Executive Order 13513, *Federal Leadership on Reducing Text Messaging While Driving* (October 1, 2009), prohibits federal employees from text messaging with any type of equipment while driving a vehicle during official travel. The EPA employees must comply with this executive order. Read the complete executive order at <http://www.gpo.gov/fdsys/pkg/FR-2009-10-06/pdf/E9-24203.pdf>.

Tips

Employees must limit tips claimed on their travel vouchers for a taxi, shuttle service or courtesy transportation to 15 percent of the charge for service. If there is no service charge, the EPA policy limits tips to \$2 for a service. Employees should make maximum use of courtesy transportation, e.g., free airport or hotel shuttle service, in lieu of incurring charges for transportation. Approved tips are reimbursable as a transportation expense.

Incidental expenses, part of meals and incidental expenses, include fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships and hotel servants in foreign countries. No additional reimbursement is allowed.

Transit or Mass Transit Passes or Cards

Appropriated funds are available to purchase passes or cards for employees to attend local meetings. Program offices and regions must have controls in place to ensure that the passes or cards are not used for personal trips. Employees must not claim local travel expenses when they receive transit passes or cards to attend meetings.

CONFERENCE PLANNING

For guidance on conference planning, please refer to:

- The EPA's November 1998 *Best Practices Guide for Conferences*. <http://intranet.epa.gov/ogd/policy/7.0-GPI-GPI-98-11.htm>
- The GSA's Conference Planning Guidance in the Federal Travel Regulation at 41 CFR Part 301-74. [Federal Travel Regulation Chapter 301 Appendix E](#)
- The Office of General Counsel's October 1996 Ethics Advisory 96-15, *Guidance on Co-sponsoring Conferences*. <http://intranet.epa.gov/ogc/ethics/96-15.pdf>
- The EPA Order 1900.3 *Food at an EPA Conference, Workshop, Ceremony, Reception or Observance*. http://intranet.epa.gov/nerlintr/extramural/legalopinions/docs/foodorder1900_3.pdf
- The Office of General Counsel's *Frequently Asked Questions on Food and Light Refreshments*. <http://intranet.epa.gov/ogc/memoranda/meals.pdf>
- The Office of General Counsel's April 30, 2007, Memorandum *Light Refreshments for Non-Federal Individuals at Meetings*. See the EPA Appendix L for the memorandum.

Attendance at Conferences

Conferences that involve travel of 30 or more EPA employees must comply with procedures established in the Conference Spending Guide available on the intranet:
http://intranet.epa.gov/ocfo/conferences/documents/conference_spending_guide.pdf

Conferences at Resort Areas

When planning for the EPA sponsored or cosponsored conferences involving travel of the EPA employees, *do not avoid* locations that offer overall cost savings to the EPA, specifically during off-season, simply because they are resort areas. In all cases, especially for resort areas, program offices and regions should perform and retain records of cost comparison to determine the most cost effective location for official business. See the EPA Appendix E, *Sample Form for Travel Cost Comparison Worksheet*.

Government Employees Training Act

The Government Employees Training Act, 5 U.S.C. 4109(a) (2) (A) and (B), governs travel, per diem and transportation expenses relating to training. This statute authorizes the EPA to pay all or part of the travel expenses associated with training. Unlike temporary duty travel, employees traveling for training purposes are not entitled to reimbursement for all of their travel expenses. The EPA officials, with authority under Delegation 1-105, *EPA Training and Learning* to approve training assignments, decide the travel expenses the EPA will pay for employees assigned to training. Employees may pay for a portion of their training related travel expenses provided an EPA training officer has determined that the activity qualifies as training under the Government Employees Training Act. That portion may be as high as 100 percent.

Under 5 U.S.C. 4111, another provision of the Government Employees Training Act, employees may accept travel and other expenses incident to attendance at meetings from organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code. However, employees may be required to report such gifts of travel on their financial disclosure reports.

LODGING AND PER DIEM

The EPA employees should travel on a lodgings-plus system, except in limited, unusual situations when a conference lodging allowance, reduced per diem or actual expense reimbursement is specifically authorized or approved for the particular trip. Under the lodgings-plus per diem system, per diem allowances (for each travel day) authorize the actual amount employees pay for lodging, plus an allowance for meals and incidental expenses and the total does not exceed the applicable maximum per diem rate for the temporary duty location.

Under Federal Travel Regulation 301-50.3, employees must make domestic lodging reservations through the EPA E-Gov Travel Service system. Employees should always stay in a fire safe facility that meets the fire safety requirements of the Hotel and Motel Fire Safety Act of 1990 (the Act), as amended (see 5 U.S.C. 5707(a)).

When selecting a commercial domestic lodging facility (not occupying a room in the home of relatives or friends), employees should give first consideration to federal government lodging agreement programs such as FedRooms® (<http://www.fedrooms.com>). The advantages of obtaining lodging through the FedRooms® program:

- Lodging rates set at or below per diem rates.
- No add-on fees.
- Room cancellation deadline is 4 p.m. or later on the day of arrival.
- Most hotels offer last standard room availability rates.
- No early departure fees.
- Rates are available through all booking channels, such as the federal E-Gov Travel Service, Travel Management Service and FedRooms® website and hotel reservation call centers. Employees must enter FedRooms® rate code, XVU, to get the program benefits previously listed.

The requirement to book lodging accommodations through the EPA Travel Management Center does not apply when a conference sponsor has negotiated with one or more lodging facilities to set aside a specific number of rooms for conference attendees. To ensure that the set aside rooms are used, direct booking, by attendees, with the specific lodging facility is required. In this instance, use of a Travel Management Center is not mandatory.

Actual Expenses

Appropriate travel authorizing officials or designees determine whether to approve actual expenses. Approval must not exceed the maximum percentage allowed in the Federal Travel Regulation. Exceptional situations must exist to receive the maximum per diem for the locality, e.g., increased costs due to special events at the temporary duty location, natural disasters.

Approval requires specific notation on the travel authorization. Travel requests with per diem above 150% of established rate for the TDY location require second line supervisor approval, prior to occurrence of TDY travel, in EPA's E-Gov Travel System. When travel authorizing officials approve expenses after the completion of the trip, an amendment to the travel authorization is required. Authorizing officials must comply with Delegation 1-17A, 1-17-B or 1-17-C.

When travel includes a combination of per diem and actual expenses, travel authorizing officials should ensure that only one method of reimbursement is authorized within a calendar day. Reimbursement will be the method and rate applicable where employees are located at midnight, at the end of the calendar day.

The reimbursement rate and method used for the day of departure from the official station must be the one authorized for the first location where lodging is required. For the day of return to the official

station, apply the method and maximum rate of reimbursement applicable to the location of the previous day.

High Dollar Travel

Travel with total trip expenses greater than \$5,000 require approval from the Senior Resource Official. The EPA's E-Gov Travel System has conditional routing which requires mandatory SRO approval for all travel requests with expenses greater than \$5,000.

Reduced Per Diem

Employees must use reduced per diem when travel authorizing officials determine in advance that lodging or meal cost is lower than the per diem rate and travel authorizing officials include the lowest authorized per diem rate on the travel authorization in advance of employees' travel. When employees receive a gift of a meal but not light refreshments during travel, then the employees must reduce their per diem accordingly.

When employees are in temporary duty status for more than 30 consecutive days, travel authorizing officials may only approve a reduced per diem rate that starts at 55 percent with the option to negotiate the percentage as long a reduction is taken for per diem. The reduced per diem rate must be included on the travel authorization.

Employees must also reduce per diem claims when the EPA or another federal agency pays for a meal at a formal conference, training workshop or similar event through a contract or otherwise. See Federal Travel Regulation 301-74.21(a). Additionally, employees must, as a matter of policy, reduce per diem claims when an EPA financial assistance recipient uses agency funds to furnish a meal at an event. Employees need not reduce per diem claims for light refreshments paid for with federal funds according to Federal Travel Regulation 301-74.21(b).

Federal Travel Regulation 301-11.18 grants discretionary authority to an agency to determine when full claim for meals and incidental expenses is allowed. The EPA travel authorizing officials may allow the employees full claim for meals and incidental expenses if:

- Employees are unable to consume the furnished meal(s) because of medical requirements or religious beliefs; employees requested specific approval to claim the full meals and incidental expenses allowance prior to their travel; employees made a reasonable effort to make alternative meal arrangements, but were unable to do so and employees purchased substitute meals in order to satisfy their medical requirements or religious beliefs.
- Employees were unable to take part in a government furnished meal due to the conduct of official business.

Timeshare Lodging

If timeshare units, occupied while on temporary duty, belong to employees; there is no reimbursement for lodging expenses. Conversely, if employees do not own the timeshare units, employees receive reimbursement for the exchange cost of timeshare accommodations up to the maximum lodging

allowance for the temporary duty locality. See Federal Travel Regulation 301-11.12(c) for limitations when friends or relatives provide lodging for employees.

TRAVEL ACCOMMODATIONS

Accommodations refer to the class or type of seating options the transportation industry, e.g., airline or train, offers to employees. The EPA employees must comply with the Federal Travel Regulation and the EPA policy on travel arrangements.

Coach-Class

The EPA employees must use coach-class accommodations for official travel unless delegated officials grant an exception for a higher class.¹¹ The section below provides additional information.

Other than Coach-Class (First-Class or Business-Class)

The Federal Travel Regulation term *other than coach-class* refers to first-class or business-class accommodations for airplane, train or ship in lieu of coach-class. The EPA officials delegated the authority to review and approve other than coach-class accommodations are in Delegations 1-17-A, 1-17-B and 1-17-C. The GSA and the OMB set requirements for other than coach-class accommodations.

The GSA Federal Travel Regulation (301-10.123) is available at <http://www.gsa.gov/fttr>. The OMB requirements (m08-07) for internal controls for other than coach-class accommodations are available at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2008/m08-07.pdf>.¹²

A request for a waiver to use other than coach-class (first-class) accommodations requires a memorandum from employees' Office Directors or equivalents to the Chief Financial Officer or designee for approval of first-class accommodations. The Inspector General or designee approves for his or her employees. Additionally, a request for a waiver to use other than coach-class (business-class) accommodations requires a memorandum from the employees' Office Directors or equivalents to appropriate delegated officials for approval of business-class accommodations.

The Chief Financial Officer or designee must receive requests for first-class accommodations at least 10 business days prior to official travel. Send requests as portable document formats in email. All correspondence must be retained as documentation in the responsible office. The request must comply with the criteria for other than coach-class accommodations in Federal Travel Regulation 301-10.123.

¹¹ Key Internal Control

¹² Key Internal Control

The following chart provides a quick guide for officials with delegated authority (see column 2).

Travel Accommodations	
Class of Transportation	Approve/Authorize
Other than Coach-Class (Business-Class) for Administrator; Deputy Administrator; Assistant Administrator; Regional Administrator;	Chief Financial Officer; Deputy Chief Financial Officer; May delegate to Director, Office of Financial Management (requires written delegation)
Other than Coach-Class (Business-Class) for All other employees*	Deputy Chief of Staff for the Office of the Administrator employees; Assistant Administrator/Deputy Assistant Administrator for their employees; Regional Administrator/Deputy Regional Administrator for their employees; Chief Financial Officer for the Office of the Chief Financial Officer employees; May delegate only to the Senior Resource Official for employees at the same level (position) or below (requires written delegation)
Other than Coach-Class (Business-Class or First-Class) for Chief Financial Officer	Deputy Administrator
Other than Coach-Class (Business-Class or First-Class) for Deputy Chief Financial Officer	Chief Financial Officer
Other than Coach-class (First- Class) for All other employees*	Chief Financial Officer; Deputy Chief Financial Officer; May delegate to Director, Office of (requires written documentation)
* The Office of Inspector General approves travel accommodations for its employees.	

Coach-Class Seating Upgrade Programs

Federal Travel Regulation 301-10.124 identifies upgrade programs as “Coach Elite,” “Coach Plus” or “Preferred Coach” that provide a more desirable seat choice within coach-class but at an annual fee. The use of these upgrades generally satisfies employees’ personal choices. Therefore, the use of the upgrades is a personal expense for employees. The EPA will not reimburse this expense.

Travel in Excess of 14 Hours

Travel authorizing officials should allow rest periods when travel is direct between authorized origin and destination points which are separated by several time zones and either the origin or destination point is outside the continental United States and the flight time, including stopovers, is in excess of 14 hours. If use of other than coach-class accommodations is authorized employees are not eligible for a rest stop en route or a rest period upon arrival. See Federal Travel Regulation 301-10.125 for additional information on the 14-hour rule.

The EPA considers a “rest stop” to be a break in TDY travel while en route to the TDY destination. A “rest stop” is defined as personal time on either end of TDY travel that permits the traveler to rest before reporting for duty. When TDY involves OCONUS travel and the scheduled flight time, including non-overnight airport stopovers and plane changes, exceeds 14 hours, a rest stop of no more than 24 hours may be authorized. A rest stop allows for relaxation, recuperation, and acclimation so a traveler is sufficiently refreshed to perform work upon arrival at the travel destination site. The following criteria must be met when authorizing a rest stop:

- The origin or destination is OCONUS, and
- Travel is direct between points and the accommodations are coach class.

The rest stop may be authorized at any intermediate point, including points within CONUS, provided the point is midway in the journey or as near to midway as scheduling permits. A rest stop will not be authorized when a traveler, for personal convenience, elects to travel by an indirect route resulting in excess travel time.

If a rest stop is authorized, it will be clearly indicated and detailed on the travel authorization. For the purposes of reimbursement, the per diem rate for the rest stop location must be used. If the carrier schedule or the requirement to use U.S. flag carriers precludes an intermediate rest stop, or a rest stop is not authorized, the traveler should schedule coach-class accommodations so as to ensure arrival at the TDY site with sufficient time to permit a reasonable rest period before reporting for duty.

The EPA may authorize business-class accommodations in lieu of a rest stop. However, the duration of a flight alone (14 or more hours) does not justify authorizing premium class. When considering premium-class accommodations for trips over 14 hours, approving officials should consider:

- The constructive cost, e.g., the cost of business-class accommodations versus the cost of coach-class accommodations plus the cost of reimbursements in conjunction with a rest stop; and
- The purpose and urgency of the trip, e.g., whether the trip is so urgent or unexpected that it cannot be delayed or postponed, and the traveler is unable to schedule either a rest stop en route or an earlier flight that would allow for a rest period before having to report for duty.

The analysis regarding the 14-hour rule must be applied when the scheduled flight time from origin to final destination exceeds 14 hours, including stopovers and change of planes. Authorization of premium-class accommodations for the outbound part of the trip does not automatically justify the use of premium

accommodations for the return trip. Authorizing officials should consider all the same tests regarding the critical nature of the travel, authorizing rest stops, and the availability of rest periods.

The EPA will not authorize premium-class accommodations when the traveler is not required to report for duty the following day, whether at the official station or a TDY location, unless there are medical needs that have been certified by a competent medical authority and confirmed by an EPA Reasonable Accommodations Coordinator. When annual leave is approved at the TDY location before the start of official business, neither a rest stop nor premium-class accommodations are authorized, unless there are medical needs that have been certified by a competent medical authority and the EPA's Reasonable Accommodations Coordinators.

Other than Coach Class Travel Exception:

FTR 301-10.123(a)(2) requires annual certifications of a disability or special need, or a one-time certification if the disability is a lifelong condition, for use of other than coach-class. To be eligible for consideration for other than coach-class accommodations, an employee shall request such accommodations via the Agency Reasonable Accommodation Procedures. For further information, please contact the EPA's Office of Civil Rights or consult the EPA's Reasonable Accommodation Procedures for Employees and Applicants with Disabilities at <http://intranet.epa.gov/civilrights/reasonableaccommodation.htm>.

Other than Coach Class Travel Exception: Agency Mission

The EPA anticipates that it would be highly unusual and there would be very few instances where "agency mission" would justify other than coach-class travel accommodations. Instances where it would be appropriate would generally be circumstances in which matters would be highly sensitive and time-critical.

Requests for other than coach-class travel accommodations based on "agency mission" require written approval by the following official:

- For the Office of the Administrator, the Senior Resource Official.
- For all other regions or programs, the Assistant Administrator or Regional Administrator.

A full written justification must be included which describes the exceptional nature of the mission requirements, and why alternatives which would allow the use of coach-class travel accommodations are not sufficient. In no case may a request be based upon a traveler's grade or position. A request for other than coach-class travel will not be approved when a traveler chooses, for personal or other non-official reasons, an alternative schedule or indirect route which gives rise to the need for upgraded travel accommodations to allow enhanced rest or working conditions.

"Agency mission" exception generally involves circumstances where travelers have unanticipated responsibilities or significant workload issues which make functioning after travel difficult without an upgrade. The following situations generally do not fall within the "agency mission" exception:

- Delivery of a speech;
- Participation in a training or conference;

- Routine agency business during normal work hours; and
- Attendance at luncheons, dinners, and other such events.

TRAVEL ADVANCES

Under Federal Travel Regulation 301-51.1, the travel card is the required method for payment of all official travel expenses, unless employees have received exemptions. The use of the travel card minimizes the need for travel advances. Travel authorizing officials should consider travel advances on a case-by-case basis. Travel authorizing official should comply with the requirements under Federal Travel Regulation Subpart C, *Receiving Travel Advances*, 301-51.200 – 301-51.203.

Employees must not use travel advances for personal use. Employees who receive advances should promptly notify their travel authorizing officials when trips are postponed or canceled. Employees must repay any portion of their travel advance not used for reimbursable expenses.

TRAVEL CARD

The EPA follows the Federal Travel Regulation for mandatory use of a travel card for expenses directly related to official travel. Federal Travel Regulation 301-51, *Paying Travel Expenses*, provides the list of travel expenses exempt from the use of the travel card. This link, [Federal Travel Regulation Part 301-51](#), provides the list. The EPA Appendix A, *General information* provides additional information for the travel card.

The Agency Program Coordinators, travel cardholders, approving officials for travel card participants and other accountable or billing officials must receive the travel card training required in the OMB Circular A-123, Management's Responsibility for Internal Control, Appendix B (Revised 2009), *Improving the Management of Government Charge Card Programs*. The GSA provides travel card online training and refresher training on its website at <https://smartpay.gsa.gov/program-coordinators/training>. Refresher training is necessary every three years or when changes in processes occur.¹³ Copies of all training certificates are maintained consistent with the EPA records management policies. Read the policy at <http://www.epa.gov/records/policy/index.htm>.

New employees, including employees who leave federal government service and return to the EPA, must undergo a credit worthiness assessment or credit check. See section below on *Credit Worthiness*. Current EPA travel cardholders, prior to the effective date of this policy, receive an exemption from this requirement.

Employees may request not to participate in (opt-out) the travel card program. Employees must submit written requests to their appropriate official, e.g., Assistant Administrator, Regional Administrator, General Counsel and Chief Financial Officer, for consideration. Federal Travel Regulation 301-51.2 exempts employees, who travel 5 times or less a year, from the mandatory use of the travel card, but allows federal agencies the discretion to issue cards to these employees. The EPA allows its senior officials to make the decision for their respective employees.

¹³ Key Internal Control

Employees who request travel cards must sign an EPA memorandum of understanding to confirm that they have read and understand the terms and conditions of travel card program. These employees agree to use the travel card for only officially authorized federal government travel. Employees receive travel cards mailed to their home addresses as the travel card contractor bank directs. Additionally, the EPA travel cardholders must:

- Not use the travel card for personal purchases.
- Pay undisputed travel card bills according to the due date reflected on the billing statement. The travel card contractor bank's billing cycle or due date may occur before travel cardholders receive reimbursement for their travel claim. Under Federal Travel Regulation 301-52.24, travel cardholders are not relieved of their obligation to pay the billing amount. The EPA travel cardholders must pay the billing amount even in those instances when the EPA travel payment process does not coincide with the travel card contractor bank's billing cycle.
- Assume personal responsibility for all undisputed charges made to their travel card even when the charges exceed the amount they will receive for reimbursement.
- Immediately report lost or stolen cards to the travel card contractor bank.
- Directly notify the travel card contractor bank of any change in address.
- Immediately notify the Agency Program Coordinator of any mistaken use of the travel card.
- Notify the Agency Program Coordinator at the new official stations to ensure that their accounts transfer to the new official stations.

Credit Worthiness

The EPA requires credit worthiness assessments for new travel card applicants as provided in the OMB A-123, Appendix B (Revised 2009) *Improving the Management of Government Charge Card Programs*. Travel cardholders who received travel cards prior to the effective date of this travel policy are *exempt* from the credit assessment requirement.

The travel card contractor bank, consistent with the requirements in the OMB A-123, requests credit worthiness assessments, credit checks, on behalf of the EPA. Credit agencies define assessments as *soft hits* that do not affect applicants' (e.g., the EPA travel cardholders') credit rating in any way. According to credit agencies, there is no limit to the number of times applicants may receive a *soft hit* credit worthiness inquiry from the travel card contractor bank.

Declining the Use of the Travel Card

If employees choose not to participate in (opt-out) the travel card program, employees must send a request to their appropriate official, for example, their Assistant Administrator, Regional Administrator, General Counsel or Chief Financial Officer, explaining the reason for nonparticipation in the travel card program. If the employees' officials concur that employees have a valid reason, the officials may grant a waiver of rights to the travel card. Waivers require documentation and maintenance in the appropriate

officials' files consistent with the EPA records management policies. Read the information at <http://www.epa.gov/records/policy/manual>.

When eligible employees decline the travel card, travel cash advance limitations are the same as those for travel cardholders. Employees who decline the travel card must charge official common carrier tickets to the EPA's centrally billed account.

Registration Fees

Travel cardholders should not use the travel card for registration fees associated with temporary duty travel. Rather, travel cardholders should make arrangements for the EPA to pay registration fees through a purchase bankcard transaction, a purchase order or a Standard Form 182 *Training Authorization Form* for events that qualify as training. Under extremely unusual circumstances, travel cardholders pay for registration fees with the travel card and *only* with prior approval from employees' travel authorizing officials.

Registration fees require proper justification on the travel authorization to explain the use of the travel card. Employees claim reimbursement as a miscellaneous expense on the travel voucher. Unique situations for use of the travel card include:

- Cash (use travel card for automated teller machine withdrawal) is necessary to pay the registration fee.
- Agency does not pay registration fee in advance.
- Other reasons beyond employees' control that travel authorizing officials accept.

Salary Offset

Section 4.4 of the OMB A-123, Appendix B, (Revised 2009), *Improving the Management of Government Charge Card Programs* mandates salary offset for delinquent travel cardholders. Salary offset is defined in section 4.4.2 as the collection of an undisputed, delinquent travel card amount through direct deduction from employees' payroll disbursement or retirement annuity on behalf of the travel card contractor bank.

When the travel card contractor bank submits notification that travel cardholders have delinquent balances, the EPA determines whether to initiate salary offset. The EPA only collects undisputed delinquent amounts after the EPA reimburses travel cardholders for travel expenses under the applicable travel regulations and consistent with a proper travel claim.

The EPA travel cardholders must pay their financial obligations within the timeframe the travel card contractor bank establishes. Travel authorizing officials, in consultation with the Agency Program Coordinator, will take the necessary steps for appropriate disciplinary action based on the EPA's *Conduct and Discipline Manual*, the EPA Order 3110.6B *Adverse Actions* and applicable collective bargaining agreement. Read the EPA Order 3110.6B on the EPA OHR Intranet at <http://intranet.epa.gov/policy/conductdiscipline.htm>.

Split Disbursement

Section 4.4 of the OMB A-123, Appendix B (Revised 2009) *Improving the Management of Government Charge Card Programs* mandates split disbursement for travel cardholders. Split disbursement is defined in Section 4.4.1 as a process that divides reimbursements (travel voucher payments) between the travel card contractor bank and travel cardholders.

The EPA requires travel cardholders to indicate on their travel vouchers an amount to directly pay the travel card contractor bank. At a minimum, split disbursement requires direct payment for common carrier transportation, lodging or hotel costs and all proper transaction fees, for example, related E-Gov Travel Service system charges for official travel service. The Cincinnati Finance Center will not process a travel voucher without an amount shown to pay the travel card contractor bank.

The Cincinnati Finance Center will contact travel cardholders for an amount to send the travel card contractor bank. After contacting travel cardholders, the Cincinnati Finance Center sends the amount the travel cardholders designate to the travel card contractor bank. The remaining balance goes to the travel cardholders' personal bank accounts via electronic funds transfer.

If travel cardholders designate amounts that do not cover all payments due to the travel card contractor bank, travel cardholders must pay the additional amounts that appear on their applicable travel card billing statements. Travel cardholders must pay any undisputed outstanding balances in full each month. The travel card contractor bank does not allow extended or partial payments. The Cincinnati Finance Center reimburses employees and travel cardholders for allowable expenses consistent with the Prompt Payment Act under Federal Travel Regulation Part 301-52.

In summary, split disbursement or split pay is a federal government requirement. Travel cardholders who apply a split pay amount to their vouchers will send that portion directly to the travel card contractor bank to pay the bill. This is especially helpful for fees and charges that are automatically billed to the travel card, such as the Travel Management Center fee and airline ticket.

The split pay process is one of the last steps for travel cardholders when processing their vouchers. All per diem and expenses should already be entered in the EPA E-Gov Travel Service system and accurate before entering the split pay amount. Travel cardholders should enter the amount they owe on their travel cards and that amount will be sent to the travel card contractor bank to pay the bill. The remainder will be deposited into the travel cardholders' personal bank accounts.

Split Disbursement and Salary Offset Waiver Procedures

Section 4.4.3 of the OMB A-123, Appendix B (Revised 2009) provides waiver procedures. Split disbursement and salary offset are mandatory. However, agencies may waive or provide for an exemption when the agencies determine that the cost of implementing split-disbursement or salary offset exceeds the benefits of implementation.

Travel Card Contractor Bank

Travel cardholders should contact the travel card contractor bank using the telephone number provided on monthly billing statement or back of travel card for all questions relating to:

- Stolen cards (also inform the appropriate Agency Program Coordinator and travel authorizing official).
- Forgotten personal identification numbers.
- Automated teller machine locations.
- Disputes (also inform the appropriate Agency Program Coordinator and travel authorizing official).

Use of Cash for Payment of Common Carrier Transportation

Under Federal Travel Regulation 301-51.100, employees may use cash, not to exceed \$100, to purchase airline, rail or bus transportation. Personal credit cards, personal checks and travelers' checks are equivalent to cash.

Employees must obtain a waiver prior to official travel for purchase of common carrier transportation in excess of \$100. In the request for a waiver, employees must justify the use of cash in excess of \$100. Employees must submit the request to the appropriate official listed in Delegation 1-17-A or 1-17-C.

TRAVEL MODES

Airline

Generally, travel by commercial air is the most advantageous mode of transportation for conducting official business. When commercial air travel is not available, travel authorizing officials determine the most expeditious and cost effective, including expense and time, mode of travel to accomplish the EPA's mission.

Bicycle

The transportation of a privately owned bicycle for personal use is not allowed at federal government expense. The EPA must only pay those expenses essential to the performance of official business. If employees want to transport a personal bicycle to a temporary duty location, travel authorizing officials must determine whether it is in the interest of the federal government, e.g., necessary to perform official business. If allowed, a cost comparison is necessary – compare appropriate airline baggage fee versus rental fee at the temporary duty location for a bicycle. The EPA will reimburse employees the lesser amount. Any additional expenses are the responsibility of employees.

A rental bicycle at the temporary duty location requires approval from travel authorizing officials after determining costs, including additional or less official time of employees to use bicycle, compared to subway, bus, taxi or other transportation at the temporary duty location. The approval must state that a rental bicycle is in the interest of the federal government. If employees intend to use the rental bicycle for personal use, travel authorizing officials must deduct the cost of personal use from total costs. Approval requires specific notation on the travel authorization.

Federal Government Aircraft

The EPA's use of a federal government aircraft, chartered or federal government owned, must comply with the OMB Circular A-126. The EPA must need the service to fulfill a mission requirement, exceptional scheduling, communication or security requirements, or there is a substantial cost savings to the federal government. The GSA implemented the OMB Circular A-126 guidelines in Federal Travel Regulation 301-10.261 through 301-10.264.

Any use of a federal government aircraft, other than for mission requirements, by the Administrator and other "senior federal officials" as defined in the OMB Circular A-126 requires approval in advance, in writing from the General Counsel or the Principal Deputy General Counsel on a trip-by-trip basis. The General Counsel or Principal Deputy General Counsel must also approve the use of federal government aircraft by family members of senior federal officials and nonfederal travelers. The Cincinnati Finance Center must semiannually report the use of chartered aircraft for senior EPA officials and nonfederal travelers to the GSA.

Federal Government Vehicle

When common carrier transportation is not advantageous to the federal government and an automobile is necessary for official travel, travel authorizing officials may authorize the use of a federal government vehicle whenever it is reasonably available. For example, employees use a federal government vehicle to travel to temporary duty at nearby locations other than their official station. Under 31 U.S.C. 1344, federal government vehicles may not be used for home to work transportation unless employees are engaged in "field work" as authorized by the Administrator or the Administrator authorizes an exception based on an emergency or other extraordinary situation.

Privately Owned Vehicle

A privately owned vehicle is a privately owned airplane, automobile, truck or motorcycle. The EPA travel authorizing officials must determine when use of a privately owned vehicle for official travel is advantageous to the federal government. Approval requires specific notation on the travel authorization prior to travel. When authorized to use a privately owned vehicle for official travel, employees' reimbursement includes mileage to and from the official destination not to exceed the cost of common carrier transportation. Employees are responsible for indirect route travel expenses. The applicable mileage reimbursement rate is available at www.gsa.gov/mileage.

A cost comparison is necessary when employees use a privately owned vehicle instead of common carrier. The travel authorization must state that costs will not exceed the cost of common carrier transportation plus per diem. The EPA Appendix E, *Sample Form for Travel Cost Comparison Worksheet*, provides assistance with determining the most advantageous method of travel.

Rental Car

Travel authorizing officials must determine when use of a rental car, including type or size, such as economy or compact, is advantageous to the federal government for official travel. Approval requires specific notation on the travel authorization.

When authorized to use a rental vehicle, employees should consider renting a vehicle from a vendor that participates in the Defense Travel Management Office's U.S. Government Car Rental Agreement to receive the Agreement's benefits, including insurance and damage liability provisions; unless employees are outside the continental United States and no agreement is in place for the employees' temporary duty location. Additional information is available at <http://www.defensetravel.dod.mil/site/rental.cfm>.

A list of participating rental car vendors is available at <http://www.defensetravel.dod.mil/Docs/CRAgreementPOCs.pdf>. The advantages of renting a car through the Defense Travel Management Office rental car program:

- Pre-negotiated car rental agreements.
- Agreement includes automatic unlimited mileage and collision damage insurance.
- Vendor does not exceed rates established in the car rental agreement.

When employees are involved in an accident or receive damage to a rental vehicle while on temporary duty, the employees should perform basic steps:

- Notify the rental company and request a replacement car, if necessary. The contact information is available on the documentation for the rental car.
- Notify the police and obtain a police report for the rental company. If a police report is not available, employees should provide sufficient information to the rental company, e.g., all information received from the parties involved in the accident.
- Complete an accident report with the rental company.
- Keep a record of the location of the rental company and its representatives who assisted with the paperwork.
- Report the incident to the proper EPA travel authorizing officials.

Any passengers who are not federal government employees, contractors, family members, friends or others may not drive the rental vehicle unless additional insurance coverage is available and purchased at employees' expense through the car rental company or passengers' names are on the authorized order, for example, family members on permanent change of official station travel. The federal government generally does not reimburse expenses for personal accident insurance, unless it is mandatory for travel outside the continental United States.

When alternative fuel vehicles or hybrid vehicles are available through the Defense Travel Management Office car rental agreement, travel authorizing officials should consider these vehicles to determine if they are advantageous to or in the interest of the federal government. If alternative fuel vehicles are not available through the Defense Travel Management Office car rental agreement, travel authorizing officials should approve the smallest, most fuel-efficient vehicle necessary to meet the EPA's mission.

Travelers should refuel rental vehicles prior to returning. Prepaid fuel on rental vehicles is NOT a reimbursable expense. Claims for prepaid fuel will be removed from travel vouchers. The full rule can be read at the following link <http://www.gpo.gov/fdsys/pkg/FR-2015-05-13/pdf/2015-11459.pdf>

Train

AMTRAK extra-fare travel in the continental United States requires approval from travel authorizing officials, and may be used when advantageous to the federal government or is necessary for security reasons. The lowest class of service available on any AMTRAK Acela Express or Metroliner train service (including Acela Express) is business-class and is advantageous to the federal government. For AMTRAK Acela Express or Metroliner train service, the EPA does not require additional approval from delegated officials.

Additionally, extra-fare train travel outside the continental United States requires approval from travel authorizing officials, and may be used when advantageous to the federal government or necessary for security reasons. However, for domestic or international travel, if the lowest class available is first-class, travel authorizing officials must comply with the Federal Travel Regulation and the EPA requirements for use of other than coach-class accommodations (first-class).

Employees are liable for additional costs when they use AMTRAK or train services for personal convenience instead of the transportation method travel authorizing officials approve. See Federal Travel Regulation 301-10.6 and 301-10.8.

TRAVEL SERVICES

E-Gov Travel Service

The EPA employees must use the EPA E-Gov Travel Service to make travel arrangements. The E-Gov Travel Service is a federal government Web based service designed to improve the efficiency and effectiveness of the federal government's travel program. E-Gov Travel Service is the generic name for the service provider included in the GSA contract and the EPA selected provider for its travel service. Use of E-Gov Travel Service ensures compliance with the Federal Travel Regulation and reduces employees' travel spending, but still allows the employees to meet their mission.

Consistent with Federal Travel Regulation 301-50.4, the EPA delegated officials or designees may grant, on a case-by-case basis, an exception to the required use of the EPA E-Gov Travel Service when employees' travel meets one of these conditions:

- Use of the EPA E-Gov Travel Service system would result in an unreasonable burden on mission accomplishment, e.g., emergency travel is involved and the Travel Management Center or the EPA E-Gov Travel Service system is not accessible, the trip is invitational travel or travel of employees with specials needs. See Federal Travel Regulation 301-13. The EPA *Emergency Travel Guidance*, issued in 2006, is still in effect and available at http://intranet.epa.gov/ocfo/finservices/emergency_travel_guide.pdf.
- Use of the E-Gov Travel Service system would compromise a national security interest.
- Use of the EPA E-Gov Travel Service system might endanger employees' lives, e.g., travel related to the federal witness protection program or for a threatened law enforcement/investigative officer.

Access the EPA E-Gov Travel Service system at <https://govtrip.com/govtrip/site/index.jsp>. For additional information on travel and the EPA E-Gov Travel Service system, access <http://intranet.epa.gov/ocfo/finservices/travel.htm>. The EPA Appendix A, *General Information* also contains information.

Travel Management Center

The EPA requires all employees to use its Travel Management Center for official travel, including transportation and lodging, except for the authorized reservation of a block of rooms or for emergency situations where it is impractical. Transportation for common carriers includes airline and rental car. For invitational travelers, travel preparers must use Travel Management Center for common carrier reservations only.

The EPA will reimburse employees for all official travel related transaction fees incurred in the use of the Travel Management Center for travel services. Employees will not receive reimbursement for transaction fees incurred for personal preference or convenience.

Use of City Pair Program

The EPA is a mandatory user of the GSA City-Pair contract. Employees on official business must use the contract carrier when one is available, unless a specific Federal Travel Regulation exception applies. See Federal Travel Regulation 301-10.107. Examples of exceptions include:

- Space on a scheduled contract flight is not available in time to accomplish the purpose of the travel or use of contract service would require employees to incur unnecessary overnight lodging costs, which would increase the total cost of the trip.
- The contractor's flight schedule is inconsistent with the EPA's policy on scheduling travel during normal working hours.
- A noncontract carrier offers a lower fare to the general public that, if used, will result in a lower total trip cost to the federal government (the combined costs of transportation, lodging, meals and related expenses considered).

VI. LOCAL TRAVEL AT OFFICAL STATION

LOCAL TRAVEL

Local travel, as defined by the EPA, is travel within 50 miles of the official station. Local travel does not require a travel authorization. Per diem is not allowed for employees working at their official stations or within the local travel areas surrounding the official stations. If local travel is advantageous to the federal government, officials delegated to authorize travel may approve reimbursement for transportation expenses that employees incur while conducting official business in their local area.

Employees must bear the cost of transportation for their normal commute from the residence to the office or the office to the residence unless:

- They are provided transit subsidy under Public Law 101-509, section 629.
- They are authorized home-to-work transportation under 31 U.S.C. 1344.
- They require transportation on the day they depart for official travel and their trip will last two or more days, requiring at least one night's lodging.
- They require transportation on their day of return from official travel lasting two or more days.
- They are not able to perform their commute by their normal mode of transportation.
- Their use of the alternate mode of transportation results in an increase in their commuting costs.

The EPA will not reimburse employees for parking incurred for direct travel between their residence and office.

Travel authorizing officials may approve reimbursement for travel between residence and home office by taxi when employees are officially ordered to work outside regular working hours in emergency situations and travel is during hours of infrequently scheduled public transportation or darkness. Travel authorizing officials must determine whether to reimburse on a case-by-case basis and consider the location of the residence, time and other contributing factors. An explanation for the reimbursement should be on the travel voucher.

Additionally, the following guidelines apply when performing travel in the defined local travel area.

- *Employees at the EPA Headquarters.* When the official station is Washington, D.C., the perimeter for local travel includes the District of Columbia, the Maryland counties of Montgomery, Howard, Anne Arundel, Prince Georges, Charles, St. Mary's, Calvert and portions of Queen Anne, Baltimore and Frederick, and in Virginia, the cities of Alexandria and Falls Church and the counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, King George and portions of Fauquier. Local travel includes employees' normal daily commute from their residence to their official station.
- *Employees in Regional Offices.* Regional Administrators or Deputy Regional Administrators establish the local travel area for their employees. Each region must submit its 50-mile local travel area list (e.g., cities, towns or counties) to the Cincinnati Finance Center.
- The EPA Order 1900.3, *Food at an EPA Conference, Workshop, Ceremony, Reception or Observation (1/12/10)* describes the circumstances when the EPA may use appropriated funds to pay for meals and light refreshments for employees working at their official station. In other situations, Agency managers should consult with the Office of General Counsel before authorizing the use of the EPA funds to pay for meals and light refreshments for federal employees who are not in travel status.

WAIVERS FOR LOCAL TRAVEL

The EPA Delegations 1-17-A and 1-17-C list the officials authorized to grant advance waivers from the prohibition on paying for lodging and per diem for employees working at their official stations. Send all retroactive or after-the-fact requests, including justification, for local travel waivers to the Director, Office of Financial Management. See the information under *Retroactive Approvals* in this section.

Employees must submit a request for a waiver through their management channels to the appropriate official no less than five business days prior to the event or assignment necessitating their incurring lodging or per diem expenses, unless there is an emergency which requires immediate approval of the waiver. See the EPA Appendix F, *Sample Request for Waiver to Local Travel Policy*.

Each office, Staff Director or equivalent level, should maintain a log of travel vouchers paid pursuant to a waiver.¹⁴ The log will provide supporting documentation in the event of an audit or investigation. At a minimum, the log should include employees' names, their residence (city, state, county), travel date, travel location and the criteria for the waiver. A sample log is available in the EPA Appendix G, *Sample Log for Local Travel Waivers Granted*. Employees must scan or fax all approved waivers into the E-Gov Travel Service system as an attachment to the travel authorization. Exceptions for granting waivers for a per diem allowance include:

On-Scene Coordinators, Investigators, Inspectors, Auditors and Legal Personnel

Assistant Administrators and Regional Administrators grant an exception to the prohibition on paying lodging and per diem at the official station for their on-scene coordinators and other employees engaged in field work at removal or remedial sites or for their employees performing other official duties outside of the EPA facilities such as investigators, inspectors, auditors and legal personnel. The exception is granted when it is necessary for these employees to effectively perform official duties at sites away from their normal places of work provided that:

- Employees must remain at the site for one or more nights.
- Employees must commute early mornings or late nights to site to perform the task, e.g., field work, participate in joint emergency preparedness exercises, participate in inspections or investigations, participate in court proceedings, deposition or discovery such that they are on official duty three hours beyond their normal duty hours and the travel time to their residence exceeds one hour.

Meetings and Conferences other than Training

In limited circumstances, exceptions are made to the prohibition for reimbursing employees for lodging and per diem within the local travel area including meetings or conferences, where employees must perform official duties at times that extend substantially beyond normal duty hours.

Substantially extended hours are three hours more than the employees' normal tour of duty and travel time to their residence will exceed one hour. Substantially extended hours cause difficulty such that

¹⁴ Key Internal Control

employees cannot reasonably return to their residence following the completion of official duties. Additionally, substantially extended hours do not allow employees to obtain adequate sustenance and rest to effectively perform official duties at the meeting or conference the next business day. Travel authorizing officials may not consider the time employees spend at an evening reception or social event associated with the meeting or conference in making this determination.

The EPA Order 1900.3, *Food at an EPA Conference, Workshop, Ceremony, Reception or Observation (1/12/10)* provides guidance on the circumstances for determining whether the EPA pays for meals and light refreshments for agency employees during the meeting or conference. These determinations do not require a waiver of the prohibition on paying per diem for employees at their official station.

Training

Travel authorizing officials may approve lodging and per diem allowance for travel in the local area, in unique situations, if employees participate in off-site training under the Government Employees Training Act. Approval must meet three conditions:

- An EPA training officer determines that the event meets the definition of training in the Government Employees Training Act.
- The training activities, described in the agenda the agency's training officer approved, extend substantially beyond normal duty hours such that employees cannot reasonably return to their residence following completion of the training and obtain adequate sustenance and rest to effectively participate in the training the next day (three hours more than their normal tour of duty and travel time to their residence will exceed one hour). Travel authorizing officials may not consider the time employees spend at an evening reception or social event associated with the training in making this determination.
- Employees must reduce per diem claims for meals that the federal government pays or that employees normally pay, e.g., lunch, at the official station if the employees receive a meal as part of the training

The EPA Order 1900.3, *Food at an EPA Conference, Workshop, Ceremony, Reception or Observation (1/12/10)* provides guidance on the circumstances for determining whether the EPA pays for meals and light refreshments for agency employees during the training workshop. These determinations do not require a waiver of the prohibition on paying per diem for employees at their official station.

Unique Situations

Assistant Administrators, Regional Administrators or equivalent senior managers may grant advance approval of waivers of the prohibition on paying for lodging and per diem at the employees' official station, in situations other than those involving meetings and conferences, on-scene coordinators or other employees engaged in field work at removal or remedial sites, investigators, inspectors, auditors, legal personnel or training. Examples include emergencies or emergency preparedness exercises, which require employees to remain in the immediate vicinity of an EPA facility to return to duty on short notice. Waivers must be in writing and contain a complete explanation of why paying for employees

lodging and per diem is essential to ensure that the EPA operations are carried out effectively. Waivers may not be granted primarily for the convenience of employees.

Retroactive Approvals

The Office of the Chief Financial Officer must approve retroactive or after-the-fact waivers of the prohibition on paying for lodging and per diem at the employees' official station. Assistant Administrators, Regional Administrators or equivalent senior managers may request retroactive waivers by sending a memorandum in email to the Director, Office of Financial Management and Staff Director, Financial Policy and Planning Staff, located in the Office of the Chief Financial Officer within five business days of the event which prompted the waiver request. The memorandum must explain why paying for employees' lodging and per diem was essential to ensure that the EPA operations are carried out effectively and why advance approval was not feasible. All correspondence, including emails, must be retained as documentation in the responsible office. The Office of the Chief Financial Officer will respond to the retroactive waiver request within 10 working days. The Inspector General or designee approves for his or her employees. International travel is any official business trip to, from or within areas outside the 50 states; the District of Columbia; the Commonwealths of Puerto Rico and the Northern Mariana Islands or the territories of the United States. Please note that only travel that takes place entirely outside of the United States will qualify for consideration of gift acceptance under the Foreign Gifts and Decorations Act, 5 U.S.C. Section 7342.

Any trip that originates in the United States with the next immediate stop in a foreign city or that originates in a foreign city with the next immediate stop in the United States does not qualify as taking place "entirely outside of the United States," as specified by the Foreign Gifts and Decorations Act and will not be approved by the Office of General Counsel under this statute for acceptance of the travel expenses. However, the Office of General Counsel may be able to apply the Ethics in Government Act, 31 U.S.C. Section 1353, to accept travel for trips that originate in the United States with the next immediate stop in a foreign city or that originate in a foreign city with the next immediate stop in the United States. Please consult with the Office of General Counsel Ethics official if questions arise.

VII. INTERNATIONAL (FOREIGN AND INVITATIONAL – FOREIGN) TRAVEL

ADMINISTRATIVE REQUIREMENTS FOR INTERNATIONAL TRAVEL

The Office of International and Tribal Affairs authorizes international travel on a trip-by-trip basis. International travel must satisfy one of the criteria listed:

- Directly supports an EPA program or project performed abroad.
- Fulfills an international obligation of the United States and the EPA under the terms of a formal agreement or informal commitment to participate in activity performed abroad.
- Benefits the EPA's domestic programs through acquisition of scientific, technical or regulatory information.
- Responds to a foreign government or to an international organization's request for technical advice or assistance on significant environmental problems. In these cases, the EPA will encourage the

foreign government or international organizations to pay for or share the costs of travel to the extent the law authorizes.

Federal Travel Regulation Chapter 304, *Payment of Travel Expenses from a Non-Federal Source*, describes proper situations for acceptance of payment from a nonfederal source and cites references. Examples of references:

- 5 U.S.C. 1353 authorizes a federal agency to accept funds from a foreign government, international or multinational organization for meetings, training or similar functions.
- 5 U.S.C. 7342 covers travel that occurs entirely outside the United States which a foreign government pays, where a federal agency permits acceptance and any regulations that the employees' agency prescribes.

Detail information on international travel is available at <http://intranet.epa.gov/OIA>.

ADMINISTRATIVE REQUIREMENTS FOR INTERNATIONAL TRIP PLAN

The international trip plan ensures that the EPA officials' international travel supports agency and United States foreign policy goals and priorities. Guidelines for processing the international trip plan:

- Employees who are first-time passport applicants or whose current *official* passports require an update or renewal must submit an international trip plan to the Office of International and Tribal Affairs at least 30 calendar days prior to the proposed departure date or earlier if possible. Official travel requires official passports.
- Employees who presently hold a valid official passport must submit an international trip plan to the Office of International and Tribal Affairs at least 21 calendar days or earlier prior to the proposed departure date. International trip plans not submitted within the appropriate deadline will require a justification in the Fast International Approval of Travel database with approval from the appropriate approving official, Assistant Administrator, Regional Administrator, General Counsel, Chief Financial Officer or designee.
- The international trip plan in the Fast International Approval of Travel database will require an amendment if there are changes to travel plans. Examples of amendments include adding another destination to the itinerary, changing the source of funding or changing meeting dates. Employees must report international trip plan cancellations to their program or regional office international travel coordinator as soon as the cancellation occurs and delete the trip from the Fast International Approval of Travel database.
- After review and approval, the Office of International and Tribal Affairs electronically assigns a trip number to the international trip plan and sends an email message to employees and the appropriate international travel coordinator with the trip number.¹⁵

¹⁵ Key Internal Control

In the event of a continuity of operations activation that results in a national emergency, all approved international trip plans with departure dates prior to or on the day of the continuity of operations activation, will require cancellation. Only emergency international travel is authorized at any time during the continuity of operations activation.

ADMINISTRATIVE REQUIREMENTS FOR INTERNATIONAL TRIP REPORT

Within 15 days of the final date of travel, a trip report must be completed in the Fast International Approval of Travel database. Each NPM and Region must monitor, at least annually, the completion of international travel reports by its travelers.

INTERNATIONAL (FOREIGN AND INVITATIONAL-FOREIGN) TRAVEL

- Employees should state on the travel authorization approval or pending approval for the proposed travel from the Office of International and Tribal Affairs and should show the assigned Office of International and Tribal Affairs trip identification number. The Cincinnati Finance Center will issue a travel advance, if requested, 10 days prior to a trip without an Office of International and Tribal Affairs international trip plan number on the travel authorization, with the caveat that employees must repay the advance if the trip is not approved.
- The EPA Headquarters and Regional Travel Management Centers will not issue airline tickets without the international trip plan number and the travel authorization number.
- Travel, pending funds in part or entirely from sources outside the EPA, such as foreign public or private sources, requires approval from the Office of General Counsel Ethics official in advance. Employees should use the funding tab in the Fast International Approval of Travel database to create their travel ethics form. In addition, any travel funded from an outside source also requires an approved EPA travel authorization and international trip plan consistent with the above procedures.

Foreign Citizens

Foreign citizens' travel to the United States is international travel if the EPA pays for the travel and initiates an invitational travel order in order to obtain services in support of the EPA mission. If the travel is jointly funded, payment from the United States and other countries, it is not international travel. Invitational travelers do not receive travel advances.

Foreign Travel by U.S. Officials

The National Security Council policy requires submission of foreign travel requests for officials at or above the rank of Assistant Secretary or equivalent, for the EPA, Assistant Administrator or above, of executive departments and agencies to the National Security Council at least seven business days prior to the scheduled date of travel. The National Security Council interprets the phrase at or above the rank of Assistant Secretary or equivalent as all Presidentially-appointed, Senate-confirmed officials. See the National Security Council memorandum, in the EPA Appendix K, *Foreign Travel by U.S. Officials*.

POTENTIAL DEPARTMENT OF STATE INTERNATIONAL COOPERATIVE ADMINISTRATIVE SUPPORT SERVICES SYSTEM TEMPORARY DUTY BILL

The international cooperative administrative support services is the principal means the federal government provides and shares the cost of common administrative support at more than 200 diplomatic and consular posts overseas.

- Even if employees do not use the Department of State services while traveling, employees should check whether the country, for planned travel, has a policy and whether the services requested generate an international cooperative administrative support services temporary duty bill. The costs can differ depending on the number of employees during same time period for a certain number of days. Example of service is security cost for employees on a short term detail. The EPA may still receive a bill if employees are in country more than seven days, even if employees do not use services.
- If employees are in-country for an extended period of time, they, while in-country, should sign a temporary duty invoice representing the commitment of the funding for the agency to pay, which constitutes a valid obligation document for this process. Employees should inform their headquarters regarding all financial obligations the employees authorized and signed.
- The Office of International and Tribal Affairs contacts the appropriate budget office coordinator for employees upon receipt of the billing to obtain a commitment notice from the allowance holder under the appropriate National Program Manager.

REIMBURSEMENT FOR INTERNATIONAL TEMPORARY DUTY

The Secretary of State establishes per diem allowances for travel in foreign areas including the Trust Territory of the Pacific Islands. These per diem allowances are available in Section 925, a supplement to the Department of State Standardized Regulations.

REIMBURSEMENT EXPENSES UNIQUE TO INTERNATIONAL TRAVEL

Travel authorizing officials approve unique expenses when:

- Employees pay to convert federal government checks into foreign currency and include the fee on their travel voucher. Employees should itemize expenditures in the money or currency of the country where purchased. If employees use annual leave in the middle of an official trip, the rate in effect on the day the employees return to official travel status will apply until another break or completion of the trip.
- Employees need international drivers' licenses to accomplish the EPA's mission rather than as a personal convenience.
- Employees qualify for hardship or danger pay under circumstances described in the Department of State Standardized Regulations. This benefit, added to their basic pay, is subject to federal income tax.

VIII. EPA APPENDICES

A- GENERAL INFORMATION

APPLICATION FOR A NEW TRAVEL CARD (First-time Cardholders at the EPA)

Employees should obtain the travel card application *Use of the Government Travel and Transportation Charge Card*, which includes employees' agreements that stipulate the contractual relationship between employees and the travel card contractor bank. Access the application at http://intranet.epa.gov/ocfo/finservices/cardholder_form.pdf.

Employees also receive a copy of the EPA memorandum of understanding for the travel card program. Find a copy of the EPA memorandum of understanding at <http://intranet.epa.gov/ocfo/finservices/bankmou.pdf>


Employees who leave federal government service and return undergo processing as new hires and require evaluation for credit worthiness. The EPA employees, transferring to another EPA office, do not need a credit worthiness assessment.

Employees who apply for the card must:

- Read the information in the EPA memorandum of understanding and the travel card application. For assistance with questions, employees should contact the Agency Program Coordinator for their office or the Cincinnati Finance Center.
- Complete and sign all documents. Employees' signatures on these documents indicate that employees understand and agree to the terms and conditions of the travel card program. Employees' supervisors must also sign the memorandum of understanding.
- Forward travel card application form, signed memorandum of understanding and a copy of the training certification form to the designated Agency Program Coordinator for processing. Employees should retain copies for their personal file.

The Agency Program Coordinator reviews employees' applications and the memorandum of understanding documents for completeness and appropriate supervisory signatures. The Agency Program Coordinator ensures employees receive a copy of the policies and procedures of the travel card program prior to forwarding applications to the travel card contractor bank for processing. The policies and procedures are attached to the application form.

Only *new* employees submit applications for credit worthiness assessments or credit checks to the Agency Program Coordinator. The travel card contractor bank processes the applications and provides Agency Program Coordinator with a *green*, *yellow* or *red* credit assessment, based on the contractor bank's internal criteria. The Agency Program Coordinators and employees do not receive the actual credit scores.

-  Approves the application and issues an unrestricted card. An unrestricted card is subject to the normal parameters assigned in the current contract with the travel card contractor bank and

does not have any additional limitations, for example, amount of available credit, the automated teller machine withdrawal ceilings, frequency or number of transactions. In general, employees who frequently travel receive a travel card with a \$10,000 credit limit. Based on management's determination, the Agency Program Coordinator requests higher limits for employees with special needs and lower limits for employee who seldom travel.

- **Yellow.** The Agency Program Coordinator receives an email that the score is in the *yellow* range. Employees with *yellow* credit scores receive a *restricted travel card* with a \$5,000 credit limit. At the request of the Agency Program Coordinator, other restrictions are added to the travel card, such as limits on individual transaction amounts or the automated teller machine use restrictions.
- **Red.** Employees and the Agency Program Coordinator are notified of a *red* condition and the travel card is not issued. Employees may reapply for a travel card after *one* year.

Employees should receive travel cards and personal identification numbers at their home address within two weeks after the Agency Program Coordinator submits the application to the travel card contractor bank.

If employees do not agree to the credit worthiness assessment, the travel card contractor bank issues a restricted travel card (see item, **Yellow**, above). The initial travel card is valid for two years from the date of issuance.

Travel Card Reissuance

Usage Evaluation Prior to Reissuance

At least twice annually, the Agency Program Coordinator and the Cincinnati Finance Center, if the region delegates that function to the Cincinnati Finance Center, review all travel card records for usage patterns, payment histories and indications of possible misuse or abuse.¹⁶

If the review indicates that the travel card is inactive for more than a year, the Agency Program Coordinator or the Cincinnati Finance Center, after consultation with employees' travel authorizing officials, should consider reducing the credit limit on the card to a nominal amount, e.g., \$3, to keep the account open. This action in no way suggests that employees abused or misused the travel card. Should circumstances change, the Agency Program Coordinator requests that the travel card contractor bank reinstate the original credit limit without requiring any action from employees, such as employees do not need to reapply for a travel card.

If the Agency Program Coordinator or the Cincinnati Finance Center believes that the travel card requires cancellation due to prolonged inactivity, the Agency Program Coordinator or the Cincinnati Finance Center should discuss the matter with employees' supervisors and receive approval prior to the Agency Program Center or the Cincinnati Finance Center taking action. The employees' supervisors should consult with employees prior to approving the action. If employees subsequently need to obtain a

¹⁶ Key Internal Control

travel card, employees must reapply for a new card and undergo a credit worthiness assessment. See section V., Prudent Travel Management, Credit Worthiness in this policy document.

If a periodic review indicates that employees abused their cardholder privilege, charged inappropriate items to the account, the Agency Program Center or the Cincinnati Finance Center should advise the travel card contractor bank to apply immediate restrictions to the travel card, such as lower credit limit, reduce number of transactions or the automated teller machine withdrawals, based upon individual circumstances. Employees and their supervisors receive notification of the new restriction(s). The employees' supervisors should consult with the Office of Human Resources to determine whether it is appropriate to withdraw the travel card. A decision to withdraw the travel card requires the employees' supervisors to inform the Agency Program Center to take the necessary action.

Cardholder with Account in Good Standing (No Restrictions)

- The travel card contractor bank issues travel cards every three years. The process is automatic and employees do not need to take any action.
- The travel card contractor bank mails new travel cards to employees approximately 30 days before the old travel cards expire. If employees do not receive the new travel card, employees should initiate direct contact to the travel card contractor bank.

Cardholder with Restricted Account

The travel card contractor bank will not reissue a restricted card without authorization from the EPA.

- All employees with restricted cards must successfully complete the travel card training again before their travel card is reissued.
- The OMB requires annual re-evaluation of employees who were issued travel cards with restrictions, yellow credit scores or restrictions placed on travel cards due to abuse or misuse. The Agency Program Coordinator or Cincinnati Finance Center must perform the re-evaluation before the cards are reissued to the employees.¹⁷
- If employees manage restricted cards responsibly, the Agency Program Coordinator or the Cincinnati Finance Center requests that the travel card contractor bank reissue travel cards for another year. After at least one year of responsible use, the Agency Program Center or the Cincinnati Finance Center determines whether to lift the card restrictions.
- If the Agency Program Center or the Cincinnati Finance Center determines that employees with a restricted card abused or misused the card privileges during the review period, e.g., the travel card contractor bank received payments after the due date or finds that employees made inappropriate charges to the account, the travel card contractor bank will not reissue the card. The Agency Program Coordinator or the Cincinnati Finance Center will advise employees and their supervisor of this decision.

¹⁷ Key Internal Control

Employees with episodes of continued abuse or misuse must wait one year to reapply for a travel card. Under these circumstances, employees undergo processing as new cardholders and require a credit worthiness assessment, even if the employees received their first travel card without a credit worthiness assessment. When these employees perform official travel, the methods of payment include travel advances for lodging and per diem and the agency's centrally billed account for common carrier transportation expenses. Personal credit cards or cash may be used consistent with section V. Prudent Travel Management, Use of Cash for Payment of Common Carrier Transportation.

TRAVEL CARD USE

Employees must use the travel card only in connection with official travel. In some cases, a hotel may require payment as soon as a reservation is made. To pay the hotel, employees put the charge on the travel card and request a travel advance. Employees should make every attempt to do business with vendors that accept the travel card. In cases where vendors do not accept the travel card, employees use their personal cash or a personal credit card and claim reimbursement on their travel voucher.

Employees leaving, retiring or transferring to other federal government agencies should cut the travel card in half and return both halves to the Agency Program Coordinator for cancellation.¹⁸ When employees transfer between the EPA official stations:

- Employees notify the Agency Program Coordinator at the new official station to ensure that the account is transferred. Failure to do so could result in interruption of travel card privileges.
- Employees notify the travel card contractor bank of a change of address.
- The Agency Program Coordinator at the former official station does not cancel or close the card. A closed account requires the former the Agency Program Coordinator to contact the travel card contractor bank to reopen the account. Closing the account will require a creditworthiness assessment to reopen accounts for employees and the travel card contractor bank may refuse to issue additional cards. As long as employees remain within the agency, the card *should remain active*.
- The Agency Program Coordinator at the new official station notifies the Cincinnati Finance Center of the change of official station.

Cash Advances

Employees obtain automated teller machine advances for an estimated 80 percent of cash transactions, such as taxi fares, registration fees or other similar expenses. The approved travel authorization is the only documentation needed for employees to obtain advances from an automated teller machine to cover allowable cash transactions. Employees may obtain approved automated teller machine advances no more than three business days before official travel begins.

¹⁸ Key Internal Control

Billing and Payment for Travel Card Purchases

The travel card contractor bank establishes accounts in the names of the EPA travel cardholders. Monthly, if there is a balance or activity on the account, the travel card contractor bank mails statements directly to travel cardholders' home addresses. The travel card contractor bank requires payment for all undisputed charges in full according to the statement billing due date printed on the statement.

If travel cardholders do not receive an expected monthly statement, travel cardholders should call the travel card contractor bank. The list of charges, on the billing statement, shows specific information merchants provided for the purchases or transactions. For clarification of charges or to dispute charges, employees should contact the merchant, e.g., hotel, airline, rental car company, that posted the charges. If travel cardholders are unable to resolve charges with the posting merchant, travel cardholders should contact the travel card contractor bank. Travel cardholders should follow the travel card contractor bank's procedures for disputing charges.

TRAVEL CARD ABUSE/MISUSE

Failure to Pay Travel Card Bills in a Timely Manner

Timely submission of travel vouchers, prompt approval and timely processing of travel vouchers prevent late payments to the travel card contractor bank. However, in rare cases, delinquencies occur and the following rules apply:

- 30 Days past Billing Date. Accounts are *past due* if the travel card contractor bank does not receive payment within 30 days of the billing date for the *Total Payment Due* shown on the billing statement. This applies even if employees filed travel vouchers and have not received reimbursement. Employees should review the terms specified in the travel card agreement for additional information. Any unpaid portion of the *Total Payment Due* appears on subsequent billing statements as a *Past Due Balance*.
- 45 Days past Billing Date. If accounts remain *unpaid* for all undisputed charges 45 days after the billing date for the *Total Payment Due*, the travel card contractor bank notifies employees and the employees' Agency Program Coordinator. *The Agency Program Coordinator notifies the employees' supervisors, subject to the local bargaining unit agreement, via email or memorandum that the travel card contractor bank has reported that their employees' accounts have outstanding balances and will suspend charging privileges if the balances remain unpaid at 60 days past the original billing date.*¹⁹ The notification will provide a contact person and a telephone number for questions about the notice.
- 60 Days past Billing Date. If accounts remain *unpaid* for all undisputed charges 60 days after the billing date for the *Total Payment Due*, the travel card contractor bank automatically suspends employees' charging privileges. *The Agency Program Coordinator notifies employees, the employees' supervisors and Senior Resource Officials, subject to the local bargaining unit*

¹⁹ Key Internal Control

*agreement, that the employees' charging privileges are suspended.*²⁰ A sample notification memorandum is in the EPA Appendix H, *Sample 60-Day Overdue Memorandum*. During this suspension period, employees must contact their Agency Program Coordinator or the Cincinnati Finance Center for guidance if the employees need travel arrangements for official travel. If the employees pay the charges before the accounts are 120 days past the original billing date, the travel card contractor bank reinstates charging privileges.

- 181 Days past Billing Date. If undisputed charges on accounts remain *unpaid* 181 days past the original billing date, the travel card contractor bank will cancel the applicable travel cards. The travel card contractor bank also may assess late fees as long as the debts remain overdue, as well as court costs and reasonable attorney's fees, if the travel card contractor bank must refer all or part of the accounts to an outside attorney or outside agency for collection. These fees should not exceed 25 percent of the amount owed. Late fees or court fees are *not reimbursable* travel expenses. The travel card contractor bank also has the right to disclose relevant account information to credit bureaus. *Delinquency will affect employees' personal credit ratings only if the charges remain outstanding more than 180 days.*

For repeated suspensions, the travel card contractor bank has the right to cancel accounts suspended for undisputed amounts *two* times during a 12-month period. The appropriate designated officials take corrective action for misuse of the travel card or failure to pay undisputed debts timely.

Delinquencies and Collections

After undisputed debts are 90 days delinquent, the travel card contractor bank may send to the Cincinnati Finance Center demand letters for salary offset for employees. The request includes the debtors' names and travel card account numbers, the amounts of the debt and a point-of-contact at the travel card contractor bank to allow employees an opportunity to repay the debts.

The Cincinnati Finance Center will provide all travel cardholders who are more than 90 days delinquent with all necessary due process. After completion of due process, the Cincinnati Finance Center forwards demand letters along with a completed Department of Defense Form 2481 *Request for Recovery of Debt Due the United States* to the Defense Accounting and Finance Service that handles the EPA's payroll to begin salary offset. Access the Defense Accounting and Finance Service form used to process salary offset at <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2481.pdf>. Send demand letters via fax to the Defense Accounting and Finance Service at (877) 622-5930. The telephone number is (888) 332-7411.

Repercussions

In rare cases, employees accidentally use travel cards instead of their personal cards for personal expenses. The Agency Program Coordinator or the Cincinnati Finance Center must review the circumstances of the misuse and decide whether these occurrences were deliberate or genuine mistakes. Factors to consider include the employees' actions to notify their supervisor, the Agency Program Coordinator or the Cincinnati Finance Center of the error, the types and amounts of expenditures and whether the employees have records of card abuse or misuse. The Agency Program Center or the

²⁰ Key Internal Control

Cincinnati Finance Center has the discretion not to place restrictions on employees' travel cards due to one isolated error, but should ensure that the employees understand the seriousness of the mistakes and that future travel card misuse could result in restrictions.

Travel card abuse, misuse or delinquency occurs when employees:

- Charge other than official travel expenses on the card.
- Obtain the automated teller machine cash advances unrelated to official travel.
- Are delinquent in paying all undisputed billed charges.
- Charge expenses to their cards prior to receiving an approved travel authorization.

ARRANGING FOR TRAVEL SERVICES

Transportation Security Administration Secure Flight

The Transportation Security Administration requires identifying information from all individuals using commercial air carrier. To comply with the Transportation Security Administration *Secure Flight* and avoid interruptions or delays in air travel, the EPA employees must verify the information stored in their profiles in the EPA E-Gov Travel Service system against the information on their government-issued photo identification, e.g., state-issued driver's license that they use for travel. If employees identify a discrepancy between their EPA E-Gov Travel Service profile and photo identifications, employees must update their EPA E-Gov Travel Service profiles. For assistance, contact the Cincinnati Finance Center Help Desk at (513) 487-2346.

Issue with Using the E-Gov Travel Service System

Employees should first call or send an email to their program office or regional travel liaison for assistance. For password resets, employees should contact the Cincinnati Finance Center Help Desk for the EPA E-Gov Travel Service contractor. Find contact information for program or regional travel liaisons and the E-Gov Travel Service contractor at <http://intranet.epa.gov/ocfo/finservices/govtrip/index.htm>.

If the program office or regional liaison or the E-Gov Travel Service contractor does not resolve an issue, employees should contact the Cincinnati Finance Center Travel Help Desk at (513) 487-2346 or send an email at CINWD TRAVEL@EPA.GOV. Emergency travel arrangement support is available 24 hours daily at the emergency service number listed on the trip itinerary.

Privacy Concerns

If employees do not feel comfortable entering personal information for special needs during travel status into the EPA E-Gov Travel Service system, employees should initiate direct contact with the airline or hotel after completing reservations to discuss arrangements for any special needs. The representatives should make the necessary adjustments for employees.

Travel Authorization

The travel authorization should:

- Identify the appropriate travel code that describes the purpose of the travel. Purpose codes identify and collect data on transportation and relocation payments.
- Specifically identify the entity that will pay and include whether the payment is *in kind* or a combination of *in kind* and the EPA funds. Examples of *in kind* travel expenses are tickets, meals, lodging and transportation, including local rides.
- Include specific annual leave dates in the E-Gov Travel Service system under *Per Diem Entitlements* and in *Justification for Annual Exits*. Employees on annual leave, traveling at personal expense, should not officially represent the EPA or use official passports.
- Show approval from the appropriate designated federal official for invitational travel orders that the EPA issues to members of Federal Advisory Committees and other invitational travelers. Approval for travel expenses are the same as the EPA employees who travel on official business.

Employees must include the appropriate purpose code on the travel authorization. The EPA Appendix D *Travel Purpose Codes* provides the codes with descriptions.

No Cost Travel

5 U.S.C. 5702 and 5 U.S.C. 5724(a) provide entitlements for reimbursement of travel expenses. The only exception is travel related to a training assignment when the agency has agreed that employees pay for the travel as authorized in 5 U.S.C. 4109 or statutes that authorize nonfederal sources to pay for travel. Official travel performed at no expense to the federal government is included on a travel authorization to document that employees are on official business while absent from their official stations. On the travel authorization, include the statement "*No authorization for per diem or any other reimbursement allowed.*" After the completion of no-cost travel, cancel the travel authorization with the notation that the trip was at no cost to the EPA. A travel voucher is not necessary. The EPA is not legally required to reimburse employees for additional expenses unless travel authorizing officials determine to either pay for part of an extended training assignment or that employees are performing official duties following completion of travel paid for by a nonfederal source. If travel authorizing officials decide to pay additional expenses, they should amend the travel authorization.

Cost Comparison Vouchers

If employees request an alternate method of travel, travel authorizing officials should determine the method most advantageous to the federal government prior to approving the travel authorization. Limit reimbursement to the cost of travel via direct or uninterrupted route. Any additional costs, e.g., transportation tickets, hotel or meals, resulting from the use of a method of travel other than the one specifically authorized, approved or regulated are the responsibility of employees. A sample worksheet, EPA Appendix E *Sample Form Travel Cost Comparison Worksheet*, provides assistance for determining the most advantageous method of travel.